

## *Errata.*

### VOLUME I.

- Page 72.—For the first two lines of the third paragraph of the first footnote substitute :—  
“It has been extended to Upper Burma (except the Shan States) by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see Burma Gazette, 1899, Pt. I, p. 89, and Gazette of India, 1899, Pt. I, p. 98. It has been declared in force”
- ” 302.—In the second line of the third paragraph of s. 221, after the word “years” omit the semi-colon, and insert a comma and the word “with”.
- ” 303.—In the last line of the third paragraph of s. 222, after the words “penal servitude” insert the words “for life or to transportation or penal servitude”.
- ” 316.—In the second line of s. 280, after the words “human life, or” insert the words “to be likely”.



THE  
UNREPEALED GENERAL ACTS  
OF  
THE GOVERNOR GENERAL IN COUNCIL.

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From 1891 to 1898, both inclusive.

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VOL. VI.

## AGENTS.

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GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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THE  
UNREPEALED GENERAL ACTS  
OF  
THE GOVERNOR GENERAL IN COUNCIL,  
WITH  
CHRONOLOGICAL TABLE, INDEX AND NOTES,  
AND AN APPENDIX CONTAINING ACTS OF PARLIAMENT AFFECTED BY  
INDIAN LEGISLATION.

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From 1891 to 1898, both inclusive.

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VOL. VI.



# PREFACE.

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THIS, the sixth and last, volume of the new edition of the General Acts has been compiled on the same lines as the five preceding volumes, and contains the unrepealed Acts of the Governor General in Council passed since the 1st January, 1891, up to date.

Included is a chronological list of English Statutes which have been expressly affected by legislation in India; and, in addition to the usual index to the volume, a general index covering all six volumes has been appended.

H. W. C. CARNDUFF,  
*Deputy Secretary to the Government of India,  
Legislative Department.*

CALCUTTA;

*The 31st December, 1898.*



# CHRONOLOGICAL TABLE OF THE UNREPEALED GENERAL ACTS OF THE GOVERNOR GENERAL IN COUNCIL, 1891—98.

[For complete chronological list of all the Acts of the Governor General in Council, whether repealed or unrepealed, see Wigley's Chronological Tables and Index of Indian Statutes, Vol. I, Ed. 1897.]

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	III	The Indian Evidence Act (1872) Amendment Act, 1891.	Rep. in part, Act V of 1898; Act V of 1899.	8
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Year.	No.	Short title	Whether repealed or amended.	Page
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THE  
UNREPEALED GENERAL ACTS  
OF  
THE GOVERNOR GENERAL IN COUNCIL.

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ACT No. 1 of 1891.<sup>1</sup>

[30th January, 1891.]

An Act to amend the Cattle-trespass Act, 1871,<sup>2</sup> and incorporate therein Act XVIII of 1883.<sup>3</sup>

of 1871. WHEREAS it is expedient to amend the Cattle-trespass Act, 1871,<sup>2</sup> and incorporate therein Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*); It is hereby enacted as follows:—

of 1871. 1. For section 1 of the Cattle-trespass Act, 1871,<sup>2</sup> the following shall be substituted, namely:—

“ 1. (1) This Act may be called the Cattle-trespass Act, 1871;<sup>2</sup> and

(2) It extends to the whole of British India except the Presidency-towns

Substitution  
of new sec-  
tion for sec-  
tion I, Act I,  
1871.  
Title and  
extent.

<sup>1</sup> Short title, “The Cattle-trespass Act Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (XIV of 1897). *Infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 104; for Report of the Select Committee, see *ibid*, 1891, Pt. V, p. 9; for Proceedings in Council, see *ibid*, 1890, Pt. VI, pp. 107 and 111; *ibid*, 1891, Pt. VI, p. 9.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act of 1871 (1 of 1871), declared in force there by the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1899.

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see Gazette of India, 1892, Pt. II, p. 367. It has also been declared in force in the Santhál Parganas, by notification under s. 3 of the Santhál Parganas Settlement Regulation (III of 1872) as amended by the Santhál Parganas Laws Regulation, 1886 (III of 1886), see Calcutta Gazette, 1892, Pt. I, p. 448.

The Act, as being part of the original Act 1 of 1871, is in force in Angul and the Khondmals, see the Schedule to the Angul District Regulation, 1894 (I of 1894).

<sup>2</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 185.

<sup>3</sup> Rep. by s. 10 of this Act, see *infra*, p. 4.

*(Secs. 2-6.)*

and such local areas as the Local Government, by notification in the official Gazette, may from time to time exclude from its operation.

(3) The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under sub-section (2)."

Additions to  
section 3,  
Act I, 1871.

2. To section 3 of the said Act the following shall be added, namely :—

“, and

“ ‘ Local authority ’ means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area, and

“ ‘ Local fund ’ means any fund under the control or management of a local authority.”

Amendment  
of section 10,  
Act I, 1871.

3. In section 10 of the said Act, for the words “ take them or cause them to be taken without unnecessary delay ” the words “ send them or cause them to be sent within twenty-four hours ” shall be substituted.

Amendment  
of section 11,  
Act I, 1871.

4. In section 11 of the said Act, for the words “ take them without unnecessary delay ” the words “ send them or cause them to be sent within twenty-four hours ” shall be substituted.

Additions to  
section 12,  
Act I, 1871.

5. (1) To the first paragraph of section 12 of the said Act, prescribing the scale according to which the pound-keeper is to levy a fine for every head of cattle impounded, the following proviso shall be added, namely :—

“ Provided that, when it appears to the Local Government from the report of a Magistrate of a District, or on the representation of a local authority, that, in any local area subject to the jurisdiction or control of such Magistrate or authority, cattle are habitually allowed to trespass on land and damage crops or other produce thereon, the Local Government may, by notification in the official Gazette, direct that, for every head of cattle of any kind specified therein which may be seized within such local area and impounded as aforesaid, the pound-keeper shall levy such fine, not exceeding double the fine mentioned in the foregoing scale, as may be prescribed in the notification.”

(2) After the third paragraph of the same section the following shall be added, namely :—

“ The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under the proviso to the first paragraph of this section.”

Substitution  
of new  
Chapter for  
Chapter V,  
Act I, 1871.

6. For Chapter V of the said Act the following shall be substituted, namely :—

#### “ CHAPTER V.

##### “ COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION.

Power to .

“ 20. Any person whose cattle have been seized under this Act, or, having

been so seized, have been detained in contravention of this Act, may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the District or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

make complaints.

" 21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

Procedure on complaint.

" If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

" 22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle, together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle;

Compensation for illegal seizure or detention.

and, if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

Release of cattle.

" 23. The compensation, fines and expenses mentioned in section 22 may be recovered as if they were fines imposed by the Magistrate."

Recovery of compensation.

7. In section 25 of the said Act the words "under the next following section or " shall be inserted between the words "Any fine imposed" and the words "for the offence of mischief."

Amendment of section 25, Act I, 1871.

8. To section 26 of the said Act the following shall be added, namely:—

"The Local Government, by notification<sup>1</sup> in the official Gazette, may from time to time, with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words 'fifty rupees' were substituted for the words 'ten rupees' or as if there were both such reference and such substitution.

Addition to section 26, Act I, 1871.

"The Local Government may at any time, by notification in the official Gazette, cancel or vary a notification under this section."

<sup>1</sup> For notifications issued under the powers conferred by this section, see note to s. 26 of the original Act, I of 1871, printed, General Acts, Vol. II, Ed. 1898, p. 183.

Addition of  
new Chapter  
after Chapter  
VII, Act I,  
1871.

9. After Chapter VII the following shall be added, namely:—

## “CHAPTER VIII.

### “SUPPLEMENTAL.

Power for  
Local Gov-  
ernment to  
transfer cer-  
tain func-  
tions to local  
authority  
and direct  
credit of  
surplus re-  
ceipts to  
local fund.

“31.<sup>1</sup> The Local Government may, from time to time, by notification in the official Gazette,—

(a) transfer to any local authority, within any part of the territories under its administration in which this Act is in operation, all or any of the functions of the Local Government or the Magistrate of the District under this Act, within the local area subject to the jurisdiction of the local authority; or

(b) direct that the whole or any part of the surplus accruing in any district under section 18 of this Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district,

and may, from time to time, by notification in the official Gazette, cancel or vary any notification under this section.”

Repeal of  
Act XVIII,  
1883.

10. Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*) is hereby repealed :

Provided that orders which have been made and notified under that Act by the Local Government and are in force immediately before the commencement of this Act shall be deemed to have been made under the Cattle-trespass Act, 1 of 1871, <sup>2</sup> as amended by this Act.

Amendment  
of section 6,  
(3), Act  
XIII, 1889.

11. In section 6, sub-section (3), of the Cantonments Act, 1889,<sup>3</sup> for the words and figures “Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*),” the words and figures “the Cattle-trespass Act, 1871,” shall be substituted.

Saving of  
references.

12. Any enactment or document referring to the Cattle-trespass Act, 1 of 1871, <sup>2</sup> or to Act XVIII of 1883 (*to amend the Cattle-trespass Act, 1871*), shall be construed to refer to the Cattle-trespass Act, 1871,<sup>2</sup> as amended by this Act.

Commence-  
ment.

13. This Act shall come into force on the first day of April, 1891.

<sup>1</sup> For notifications issued under the powers conferred by this section, see note to s. 31 of Act I of 1871, printed, General Acts, Vol. II, Ed. 1898, p. 183.

<sup>2</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 183.

<sup>3</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 335.



ACT No. II of 1891.<sup>1</sup>

[6th February, 1891.]

An Act to amend the Indian Christian Marriage Act, 1872.<sup>2</sup>

WHEREAS it is expedient to amend the Indian Christian Marriage Act,

XV of 1872. 1872; <sup>2</sup> It is hereby enacted as follows:—XV of 1872. 1. (1) For section 6 of the Indian Christian Marriage Act, 1872,<sup>2</sup> the following shall be substituted, namely:—

Substitution of new section for section 6, Act XV, 1872. Grant and revocation of licences to solemnize marriages.

“6.<sup>3</sup> The Local Government, so far as regards the territories under its administration, and the Governor General in Council, so far as regards any Native State, may, by notification in the local official Gazette or in the Gazette of India, as the case may be, grant licenses to Ministers of Religion to solemnize marriages within such territories and State, respectively, and may, by a like notification, revoke such licenses.”

(2) A license to solemnize marriages granted to a Minister of Religion under Act XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*) shall be deemed, if in force on the day on which the Indian Marriage Act, 1865, came into force, to have been, while that Act was in force, a license granted under that Act, and, if in force on the day on which the Indian Christian Marriage Act, 1872,<sup>2</sup> came into force, to have been, since that Act came into force, a license granted under that Act.

V of 1865.

(3) A license to solemnize marriages granted to a Minister of Religion under Act XXV of 1864 (*to provide further for the solemnization of marriages in India of persons professing the Christian Religion*), the Indian Marriage Act, 1865, or the Indian Christian Marriage Act, 1872,<sup>2</sup> shall, if in force immediately before the commencement of this Act, be deemed to have been

<sup>1</sup> Short title, “The Indian Christian Marriage Act (1872) Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (XIV of 1897). *Infra*, p. 231.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 110; for Report of the Select Committee, see *ibid*, 1891, Pt. V, p. 17; for Proceedings in Council, see *ibid*, 1890, Pt. VI, pp. 113 and 144; *ibid*, 1891, Pt. VI, pp. 5 and 15.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, XV of 1872, declared in force there by the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1899.

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see Gazette of India, 1892, Pt. II, p. 367. It has also been declared in force in the Santhál Parganas by notification under s. 3 of the Santhál Parganas Settlement Regulation (III of 1872) as amended by the Santhál Parganas Laws Regulation, 1886 (III of 1886), see Calcutta Gazette, 1892, Pt. I, p. 448.

<sup>2</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 273.

<sup>3</sup> For notifications issued under the powers conferred by this section, see the original Act, XV of 1872, printed, General Acts, Vol. II, Ed. 1898, p. 373.

(Secs. 2-4.)

granted under the Indian Christian Marriage Act, 1872, as amended by sub- xxv of 1872 section (1) of this section.

(4) [*Repeal of Act XV of 1884.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

Addition to  
proviso to  
section 10,  
Act XV,  
1872.

2. To the proviso to section 10 of the said Act the following shall be added, namely :—

“or

(3) a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of the Church of Scotland.”

Amendment  
of section 11,  
Act XV,  
1872.

3. In section 11 of the said Act, after the words “other than a church” the words “where worship is generally held according to the forms of the Church of England” shall be added, and between the word “no” and the word “church” in the expression “unless there is no church” the word “such” shall be inserted.

Substitution  
of new sec-  
tion for sec-  
tion 62, Act  
XV, 1872.  
Keeping of  
register book  
and deposit  
of extracts  
therefrom  
with Regis-  
trar General.

4. (1) For section 62 of the said Act the following shall be substituted, namely :—

“62.<sup>1</sup> (1) Every person licensed under section 9 shall keep in English, or in the vernacular language in ordinary use in the district or State in which the marriage was solemnized, and in such form as the Local Government by which he was licensed may from time to time prescribe, a register-book of all marriages solemnized under this Part in his presence, and shall deposit in the office of the Registrar General of Births, Deaths and Marriages for the territories under the administration of the said Local Government, in such form and at such intervals as that Government may prescribe, true and duly authenticated extracts from his register-book of all entries made therein since the last of those intervals.

“(2) Where the person keeping the register-book was licensed as regards a Native State by the Governor General in Council, references in sub-section (1) to the Local Government therein mentioned shall be read as references to the Local Government to whose Registrar General of Births, Deaths and Marriages certified copies of entries in registers of births and deaths are for the time being required to be sent under section 24, sub-section (2), of the Births Deaths and Marriages Registration Act, 1886.” \* \* \* \*

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<sup>1</sup> For notifications issued under this section, see note to s. 62 in the original Act, XV of 1872, printed, General Acts, Vol. II, Ed. 1898, p. 373.

<sup>2</sup> Sub-section (2) of s. 4, which repeals cl. (c) of s. 30 of the Births, Deaths and Marriages Registration Act, 1886, was repealed by the Repealing and Amending Act, 1891 (XII of 1891). Printed, *infra*, p. 32.

(Secs. 5-7.)

5. For section 66 of the said Act the following shall be substituted, namely :—

Substitution of new section for section 66, Act XV, 1872.

“66. Whoever, for the purpose of procuring a marriage or license of marriage, intentionally,—

False cath. declaration, notice or certificate for procuring marriage.

(a) where an oath or declaration is required by this Act, or by any rule or custom of a Church according to the rites and ceremonies of which a marriage is intended to be solemnized, such Church being the Church of England or of Scotland or of Rome, makes a false oath or declaration, or,

(b) where a notice or certificate is required by this Act, signs a false notice or certificate,

shall be deemed to have committed the offence punishable under section 193<sup>1</sup> of the Indian Penal Code<sup>1</sup> with imprisonment of either description for a term which may extend to three years and, at the discretion of the Court, with fine.”

6. For section 68 of the said Act the following shall be substituted, namely :—

Substitution of new section for section 68, Act XV, 1872.

“68. Whoever, not being authorized by section 5 of this Act to solemnize marriages, solemnizes or professes to solemnize, in the absence of a Marriage Registrar of the district in which the ceremony takes place, a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, or (in lieu of a sentence of imprisonment for seven years or upwards) with transportation for a term of not less than seven years and not exceeding ten years,

Solemnizing marriage without due authority.

or, if the offender is an European or American, with penal servitude according to the provisions of Act XXIV of 1855<sup>2</sup> (*to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts*), and shall also be liable to fine.”

7. To section 69 of the said Act the following shall be added, namely :—

Addition to section 69, Act XV, 1872.

“Nor does this section apply to marriages solemnized by a Clergyman of the Church of Scotland according to the rules, rites, ceremonies and customs of the Church of Scotland.”

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 292.

<sup>2</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 101.

Amendment  
of sections  
71 and 72,  
Act XV,  
1872.

8. (1) For clause (2) of section 71 of the said Act the following shall be substituted, namely:—

“(2) after the expiration of two months after the copy of the notice has been entered as required by section 40 in respect of any marriage, solemnizes such marriage;”.

(2) In section 72 of the said Act, for the words “three months” the words “two months” shall be substituted.

Addition to  
section 74,  
Act XV,  
1872.

9. To section 74 of the said Act the following shall be added, namely:—

“Whoever, being licensed to grant certificates of marriage under Part VI of this Act, without just cause refuses, or wilfully neglects or omits, to perform any of the duties imposed upon him by that Part, shall be punished with fine which may extend to one hundred rupees.”

Amendment  
of section 86,  
Act XV,  
1872.

10. Section 86 of the said Act shall be read as if the words “situate within or bordering on” instead of the words “situate within the local limits of” had been enacted in that section when the Act was passed.

#### ACT No. III of 1891.<sup>1</sup>

[13th February, 1891]

### An Act to amend the Indian Evidence Act, 1872,<sup>2</sup> and the Code of Criminal Procedure, 1882.<sup>3</sup>

WHEREAS it is expedient to amend the Indian Evidence Act, 1872,<sup>2</sup> and the Code of Criminal Procedure, 1882;<sup>3</sup> It is hereby enacted as follows:—

I of 1872  
X of 1882

#### Indian Evidence Act, 1872.<sup>2</sup>

Amendment  
of section 14  
Act I, 1872.

1. (1) For the *Explanation* to section 14 of the Indian Evidence Act, I of 1872, 1872,<sup>2</sup> the following shall be substituted, namely:—

“*Explanation I.*—A fact relevant as showing the existence of a relevant

<sup>1</sup> Short title, “The Indian Evidence Act (1872) Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (XIV of 1897). Printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 100; for the Report of the Select Committee, see *ibid*, 1891, Pt. V, p. 25; for Proceedings in Council, see *ibid*, 1890, Pt. VI, pp. 105 and 144; *ibid*, 1891, Pt. VI, pp. 17 and 21.

So far as this Act amends Act I of 1872, it is in force in Upper Burma (except the Shan States) as being part of that Act, declared in force there by the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1890.

The Act has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see Gazette of India, 1892, Pt. II, p. 367. It has also been declared in force in the Santhāl Parganas, by notification under s. 3 of the Santhāl Parganas Settlement Regulation (III of 1872) as amended by the Santhāl Parganas Laws Regulation, 1886 (III of 1886), see Calcutta Gazette, 1892, Pt. I, p. 448.

The Act, as being part of the original Act, I of 1872, is in force in Angul and the Khondmals, see Schedule to the Angul District Regulation, 1894 (I of 1894); and has been declared applicable to Hill-tribes in the Kachin Hill-tracts of Upper Burma, see Schedule to the Kachin Hill-tribes Regulation, 1895 (I of 1895); to Chins in the Chin Hills of Upper Burma, see Schedule to the Chin Hills Regulation, 1896 (V of 1896).

<sup>2</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 222.

<sup>3</sup> Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898). *Infra*, p. 380.

state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.

"*Explanation 2.*—But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is relevant within the meaning of this section, the previous conviction of such person shall also be a relevant fact."

(2) For *Illustration (b)* to the same section the following shall be substituted, namely :—

"(b) *A* is accused of fraudulently delivering to another person a counterfeit coin which at the time when he delivered it, he knew to be counterfeit.

The fact that, at the time of its delivery, *A* was possessed of a number of other pieces of counterfeit coin is relevant.

The fact that *A* had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant."

2. In section 15 of the said Act, after the word "intentional," there shall be inserted the words "or done with a particular knowledge or intention".

Amendment of section 15, Act I, 1872.

3. To section 26 of the said Act the following shall be added, namely :—

Addition to section 26, Act I, 1872.

"*Explanation.*—In this section 'Magistrate' does not include the head of a village discharging magisterial functions in the Presidency of Fort St. George or in Burma or elsewhere, unless such headman is a Magistrate exercising the powers of a Magistrate under the Code of Criminal Procedure, 1882.<sup>1</sup>

4. In section 30 of the said Act, immediately before the *Illustrations* the following shall be inserted, namely :—

Addition of *Explanation* to section 30, Act I, 1872.

"*Explanation.*—'Offence' as used in this section includes the abetment of, or attempt to commit, the offence."

5. To section 43 of the said Act the following *Illustrations* shall be added, namely :—

Addition to section 43, Act I, 1872.

"(e) *A* is charged with theft and with having been previously convicted of theft. The previous conviction is relevant as a fact in issue.

"(f) *A* is tried for the murder of *B*. The fact that *B* prosecuted *A* for libel and that *A* was convicted and sentenced is relevant under section 8 as showing the motive for the fact in issue."

6. For section 54 of the said Act the following shall be substituted, namely :—

Substitution of new section for section 54, Act I, 1872.

"54. In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

Previous bad character not relevant, except in reply.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898). Printed, *infra*, p. 350.

"*Explanation 1.*—This section does not apply to cases in which the bad character of any person is itself a fact in issue.

"*Explanation 2.*—A previous conviction is relevant as evidence of bad character."

Amendment  
of *Explanation*  
to section  
55, Act I,  
1872.

Amendment  
of section 86,  
Act I, 1872.

7. In the *Explanation* to section 55, after the word "but" there shall be inserted the words and figures "except as provided in section 54."

8. In section 86 of the said Act, for the words "resident in" the words "in or for" shall be substituted. 1 \* \* \* \*

### *Code of Criminal Procedure, 1882.*

9. [*Amendment of section 310, Act X, 1882.*] *Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).*

### ACT No. V of 1891.<sup>2</sup>

[27th February, 1891.]

### An Act to amend and supplement the Indian Ports Act, 1889.<sup>3</sup>

WHEREAS it is expedient to amend and supplement the Indian Ports Act, X of 1889;<sup>3</sup> It is hereby enacted as follows:—

Substitution  
of new clause  
for section  
6 (1) (a), Act  
X of 1889.

1. For clause (a) of section 6, sub-section (1), of the Indian Ports Act, X of 1889,<sup>3</sup> the following shall be substituted, namely:—

"(a) for regulating the time and hours at and during which, the speed at which, and the manner and conditions in and on which, vessels generally, or vessels of any class defined in the rules, may enter, leave or be moved in any port subject to this <sup>4</sup> Act".

<sup>1</sup> The words "and to the same section the following shall be added, namely" and the addition, were repealed by s. 5 of the Indian Evidence Act, 1899 (V of 1899).

<sup>2</sup> Short title, "The Indian Ports Act, 1891." See the Indian Short Titles Act, 1897 (XIV of 1897). *Infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 7; for Report of the Select Committee, see *ibid*, 1891, Pt. IV, p. 10; for Proceedings in Council, see *ibid*, 1891, Pt. VI, pp. 6, 26 and 30; *ibid*, 1891, Extraordinary, dated January 12, p. 14.

<sup>3</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 297.

<sup>4</sup> For notifications issued under the powers conferred by s. 6, see note to the original Act, 1889 (X of 1889), printed, General Acts, Vol. V, Ed. 1898, p. 300.

2. Any direction which, having been issued by a Local Government and published in an official Gazette, expressly purports, or may be reasonably held to have been intended, to be a rule under section 7, clause 8, of Act XXII of 1855,<sup>1</sup> or under section 7, clause (h), of the Indian Ports Act, 1875,<sup>2</sup> or under section 6, sub-section (1), clause (h), of the Indian Ports Act, 1889,<sup>3</sup> or under any other law for the time being in force, with respect to the moving of vessels in any port which is at the commencement of this Act subject to the Indian Ports Act, 1889,<sup>3</sup> shall, if the direction has not been cancelled by the Local Government by a notification in an official Gazette and could, after the commencement of this Act, be issued as a rule made under clause (a) of section 6, sub-section (1), of the Indian Ports Act, 1889,<sup>3</sup> as amended by the foregoing section of this Act, be deemed to have been issued as a rule made under that clause.

3. The expressions "port" and "vessel" in this Act have respectively the same meanings as in the Indian Ports Act, 1889.<sup>3</sup>

#### ACT No. VI OF 1891.<sup>4</sup>

[6th March, 1891.]

### An Act to amend certain Acts respecting Indian Merchant Shipping.

WHEREAS it is expedient to amend certain Acts respecting Indian Merchant Shipping; It is hereby enacted as follows :—

#### Act I of 1859.<sup>5</sup>

1. (1) In clause 1 of section 12 of Act I of 1859,<sup>5</sup> for the words "or any higher rank in the service of Her Majesty or of the East India Company," the following words shall be substituted, namely :—

"or any corresponding or higher rank in the service of Her Majesty or the rank of commander or first grade officer in the Indian Marine Service,".

<sup>1</sup> Repealed by Act XII of 1875, since also repealed.

<sup>2</sup> Repealed by the Indian Ports Act, 1889 (X of 1889). Printed, General Acts, Vol. V, Ed. 1898, p. 297.

<sup>3</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 297.

<sup>4</sup> Short title, "The Indian Merchant Shipping Law Amendment Act, 1891." See the Indian Short Titles Act, 1897 (XIV of 1897). *Infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 216; for the Report of the Select Committee, see *ibid.*, 1891, Pt. V, p. 33; for Proceedings in Council, see *ibid.*, 1891, Pt. VI, pp. 2, 30 and 32.

<sup>5</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 167.

Saving of  
past rules  
respecting  
the moving  
of vessels in  
ports.

Definitions.

Amendment  
of section 12,  
Act I, 1859.

(Secs. 2-4.)

(2) In clause 2 of the same section, after the words "any such ship as aforesaid," the following words shall be inserted, namely:—

"or who has attained or shall attain the rank of second grade officer in the Indian Marine Service,".

Addition of  
section after  
section 24,  
Act I, 1859.

2. After section 24 of the same Act the following shall be inserted, namely:—

Renewal of  
running  
agreements  
in certain  
cases.

"24A. (1) When a running agreement with the crew of a foreign-going ship has been made under section 23 and the ship arrives after the next following thirtieth day of June or thirty-first day of December at a port of destination in India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may be required by the shipping-master so to renew the agreement, for the voyage from such port of destination to the port in India at which the crew have agreed to be discharged.

"(2) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by the Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of Chapter III of the Indian Merchant Shipping Act, 1880."

VII

Addition to  
section 32,  
Act I, 1859.

3. To section 32 of the same Act the following shall be added, namely:—

"Notwithstanding anything in this section or in any other enactment for the time being in force, the owner of home-trade ships or his agent may enter into time-agreements, in forms to be sanctioned by the Governor General in Council, with individual seamen to serve in any one or more ships belonging to him, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December."

Amendment  
of section  
115, Act I,  
1859.

4. To section 115 of the same Act the following shall be added, namely:—

"and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by the Government in respect of any such lascar or other native seaman who may be discharged or left behind at any port out of India and becomes distressed and is relieved under the provisions of the Merchant Shipping Act, 1854,<sup>1</sup> section 211, and the enactments amending the same."

17 &  
c. 10.

<sup>1</sup> Printed General Acts, Vol. III, Ed. 1896, p. 304.

<sup>2</sup> See now s. 185 of the Merchant Shipping Act, 1894 (57 and 58 Vict., Cap. 60).



(Secs. 5-9.)

5. Section 118 of the same Act shall be modified as follows, namely :—

Modification  
of section  
118, Act I,  
1859.

- (1) in the definition of “home-trade ship” the words “or in the Straits Settlements” shall be inserted between the words “on the Continent of India” and the words “or in the Island of Ceylon,” and
- (2) in the definition of “foreign-going ship” the words “nor in the Straits Settlements” shall be inserted between the words “nor on the Continent of India” and the words “nor in the Island of Ceylon”.

*The Indian Merchant Shipping Act, 1880.*<sup>1</sup>

I of 1880.

6. For section 72 of the Indian Merchant Shipping Act, 1880, the following shall be substituted, namely :—

Substitution  
of new section  
for section  
72, Act  
VII, 1880.  
Savings.

“72. But nothing in this Chapter shall be deemed to—

- (a) affect the declaration of the twenty-third day of October, 1889, in the schedule to this Act, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or
- (b) affect section 29 of the Indian Ports Act, 1889,<sup>2</sup> or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.”

of 1889

7. In section 74 of the same Act, after the words “so appointed” the words “or bringing within such limits any wreck which has been found and taken possession of elsewhere” shall be inserted.

Amendment  
of section 74,  
Act VII,  
1880.

8. To the same Act the schedule in the schedule to this Act shall be added.

Addition of  
schedule to  
Act VII,  
1880.

*The Indian Merchant Shipping Act, 1883.*<sup>3</sup>

of 1883.

9. To section 6 of the Indian Merchant Shipping Act, 1883, the following shall be added, namely :—

Amendment  
of section 6,  
Act V, 1883.

“(4) The Magistrate or other officer whose duty it is under sub-section (1) to report to the Local Government such information as is referred to in that sub-section shall be deemed to be a public servant, and shall have all the powers

<sup>1</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 304.

<sup>2</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 297.

<sup>3</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 644.

## (Sec. 10.)

which an inspector appointed under section 14 of the Merchant Shipping Act, 17, 1854,<sup>1</sup> has under clauses (1) to (5) of section 15 of that Act, that is to say:— c. 1

- (1) he may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage :
- (2) he may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make :
- (3) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make :
- (4) he may require and enforce the production of all books, papers or documents which he considers important for such purpose :
- (5) he may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

“(5) The word ‘coasts’ in this section includes the coasts of creeks and tidal rivers.”

10. For sub-section (1) of section 7 of the same Act the following shall be substituted, namely :—

New sub-section substituted for sub-section (1) of section 7, Act V, 1883.

Power for Local Government to appoint special Court of investigation.

“(1) If the Local Government to which the report prescribed by the last foregoing section has been made or within whose territories any competent witnesses of any such loss, abandonment, stranding, damage or casualty as is described in clause (a), (b), (c) or (d) of sub-section (1) of the same section have arrived or are to be found or any evidence of such supposed loss as is described in clause (e) of the same sub-section can be obtained, is of opinion that a formal investigation into the facts mentioned in any of the said clauses is requisite or expedient, such Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same.”

<sup>1</sup> See now s. 728 of the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60) by which this Act has been repealed.

11. In section 8 of the same Act, after the words "Local Government" the words "or by such officer as the Local Government has empowered in this behalf" shall be inserted. Amendment of section 8, Act V, 1883.

12. [*Amendment of section 20, Act V, 1883.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*<sup>1</sup>

13. After section 24 of the same Act the following shall be added, namely:— Addition of section after section 24, Act V, 1883.

"24A. (1) Notwithstanding anything in the foregoing provisions of this Act, a certificate (whether of competency or service) which has been granted by any Local Government to a master, mate or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869,<sup>2</sup> or of any Order in Council under the said Act, may, if a Court conducting an investigation under this Act finds that the loss, stranding or abandonment of or damage to any ship, or loss of life, has been caused by the wrongful act or default of the master, mate or engineer, or that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, be cancelled or suspended by the Court : Power to Court to suspend or cancel certificates granted by Local Government.

"Provided that the Court shall not cancel or suspend a certificate unless the holder of the certificate was furnished before the commencement of the investigation with the copy of the report or statement required by section 9 or section 10, as the case may be.

"(2) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancellation or suspension of any certificate.

"(3) A master, mate or engineer whose certificate has been cancelled or suspended by the Court shall deliver the certificate to the Court, and the Court shall forward it to the Local Government, together with the report which it is required by section 17, sub-section (1), to transmit to that Government.

"(4) A master, mate or engineer failing to deliver a certificate as required by sub-section (3) shall be punished with fine which may extend to five hundred rupees.

"(5) The duties imposed and powers conferred by sections 22, 23 and 24 on the Local Government which cancels or suspends a certificate shall, when a Court has under this section cancelled or suspended a certificate, be performed and exercised by the Local Government to which the Court has forwarded the certificate under sub-section (3), as if such Local Government had itself cancelled or suspended the certificate under section 20."

<sup>1</sup> Printed, *infra*, p. 32.

<sup>2</sup> See now the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60), by which this Act has been repealed.

*Supplemental.*

General  
provision  
with respect  
to surrender  
of certificates.

14. (1) When the certificate of a master, mate, engineer or engine-driver is cancelled or suspended under any law for the time being in force, he shall deliver to the Court or person entitled to receive delivery from him of such cancelled or suspended certificate every other certificate, if any, held by him which has been granted to him under any of the Merchant Shipping Acts,<sup>1</sup> 17 & c. 104 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869,<sup>1</sup> or which has 32 VI. 11. been granted to him by any Local Government in British India.

(2) If any master, mate, engineer or engine-driver fails to comply with the requirement of sub-section (1), he shall be punished with fine which may extend to five hundred rupees.

## THE SCHEDULE.

(See section 8.)

## THE SCHEDULE.

(See section 72.)

*Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of Wrecks on their respective Coasts.*

The Government of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June, 1879, by the following arrangements :—

## ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

<sup>1</sup> See now the Merchant Shipping Act, 1894 (57 and 58 Vict., c. 60) by which these Acts have been repealed.

## ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

## ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

## ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the shipwrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

*(Schedule.)*

## ARTICLE V.

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

## ARTICLE VI.

The stipulations of the present Declaration<sup>1</sup> shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India.	Victoria.
The Dominion of Canada.	Queensland.
Newfoundland.	Tasmania.
The Cape.	South Australia.
Natal.	Western Australia.
New South Wales.	New Zealand.

Provided always that the stipulations of the present Declaration shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

## ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either Party may give notice of its intention to terminate it.

In witness whereof, the undersigned Plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugene Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

(L.S.) LYTTON.

(L.S.) E. SPULLER.

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<sup>1</sup> The Declaration has been made applicable to India, *see* s. 6, *supra*, p. 13.

(Secs. 1-3.)

ACT No. VII of 1891.<sup>1</sup>

[6th March, 1891.]

An Act to amend Act X of 1841.<sup>2</sup>

WHEREAS it is expedient to amend the Act of the Governor General in Council, No. X of 1841<sup>3</sup> (*an Act for prescribing the rules to be observed in order that ships or vessels belonging to ports within the territories under the government of the East India Company, or belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor General of India in Council made in pursuance of the Statute 3rd & 4th Vict., c. 56*) ; It is hereby enacted as follows :—

1. [Repeal of a word in section 2, Act X of 1841.] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*<sup>3</sup>

2. For that portion of section 3 of the said Act, beginning with the words “the persons now authorised” and ending with the words “such other or different persons”, the words “such persons” shall be substituted. Amendment of section 3, Act X of 1841.

3. For sections 8 to 12, both inclusive, of the said Act, the following shall be substituted, namely :— Substitution of new sections for sections 8 to 12, Act X of 1841.

“8. The certificate of the surveying officer shall be in the form in the schedule to this Act or in such other form as the Governor General in Council may from time to time prescribe ; and such certificate shall be delivered to the registering officer before registry. Certificate of surveying officer.”

“9. Subject to the provisions of section 70 of Act I of 1859 <sup>4</sup> (*an Act for the amendment of the law relating to Merchant Seamen*) as amended by section 9 of the Indian Merchant Seamen's Act, 1876,<sup>5</sup> the tonnage of a ship or vessel required by law to be registered shall, previous to her being registered, be measured and ascertained according to such of the rules and orders for the time being in force in and under the Merchant Shipping Act, 1854,<sup>6</sup> as amended by subsequent Acts [including the <sup>6</sup>Merchant Shipping (Tonnage) Act, 1889], as apply to measurement of tonnage for the purpose of registry. Measurement of tonnage for purpose of registry.

“10. Subject to the provisions referred to in the last foregoing section, the tonnage of a ship or vessel requiring to be measured for any purpose other than Measurement of tonnage for purpose

<sup>1</sup> Short title, “The Indian Registration of Ship Act 1891; Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (XIV of 1897) printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt V, p. 248 ; for Report of the select Committee, see *ibid*, 1891, Pt. V, p. 39 ; for Proceedings in Council, see *ibid*, 1891, Pt VI, pp. 2, 26, 30 and 33.

<sup>2</sup> Printed, General Acts, Vol. I, Ed. 1863, p. 19.

<sup>3</sup> Printed, *infra*, p. 32.

<sup>4</sup> Printed, General Acts, Vol. I, Ed. 1893, p. 167.

<sup>5</sup> Printed, General Acts, Vol II, Ed. 1893, p. 543.

<sup>6</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

(Secs. 4-8.)

other than  
registry.

registry shall be measured and ascertained according to such of the rules and orders for the time being in force in and under the Merchant Shipping Act, 1854,<sup>1</sup> amended as aforesaid, as apply to measurement of tonnage for a purpose other than registry. 17 & 18 c. 104.

Substitution  
of Governor  
General in  
Council for  
Board of  
Trade.

"11. The rules and orders referred to in section 9 and section 10 of this Act shall, in their application to measurement of tonnage for the purposes of this Act, or of any enactment, rule or order referring to this Act, be read and construed as if the Governor General in Council were therein named instead of the Board of Trade or the authority for which the Board of Trade has been substituted by section 3 of the Merchant Shipping Act, 1872.<sup>1</sup>

Marking of  
register ton-  
nage on ship  
or vessel.

"12. The true amount of the register tonnage of every ship or vessel to be measured and ascertained according to the rules and orders referred to in section 9 of this Act shall be deeply carved or cut in figures of at least three inches in length on the main beam of every such ship or vessel prior to her being registered." 35 & 36 c. 73.

Amendment  
of section 14,  
Act X of  
1841.

4. In section 14 of the said Act, to the word "tonnage" wherever it occurs, the word "register" shall be prefixed, and for the words "rules herein prescribed" the words "said rules and orders" shall be substituted.

Amendment  
of section 15,  
Act X of  
1841.

5. In section 15 of the said Act, \* \* \* \* for the words and figures "Act No. II of 1839" the words "the law for the time being in force for the recovery of fines imposed by Criminal Courts" shall be substituted.

6. [*Repeal of words in section 17, Act X of 1841.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

(2) To [section 17 of the said Act]<sup>3</sup> the words "recoverable as aforesaid" shall be added.

Amendment  
of section 23,  
Act X of  
1841.

7. In section 23 of the said Act, after the words "ten thousand rupees" the words "recoverable as aforesaid" shall be inserted.

Amendment  
of section 24,  
Act X of  
1841.

8. In section 24 of the said Act,<sup>4</sup> \* \* \* \* for the words "for the Governor of Fort William in Bengal or for the Governor in Council of any presidency" and for the words "for the Governor of Fort William in Bengal or the Governor in Council of any presidency" the words "for a Local Government" shall be substituted.

<sup>1</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

<sup>2</sup> The words "the words, 'or the East India Company' are hereby repealed, and" were repealed by the Repealing and Amending Act, 1891 (XII of 1891), printed, *infra*, p. 32.

<sup>3</sup> These words were substituted for the words "the same section," by the Repealing and Amending Act, 1891 (XII of 1891).

<sup>4</sup> The words "the words 'issued under the Company's Seal and' are hereby repealed, and" were repealed by the Repealing and Amending Act, 1891 (XII of 1891).



## (Sec. 9. The Schedule.)

9. After section 26 of the said Act, and before the Proclamation, the following shall be inserted, namely:—

“27. The expressions ‘Local Government,’ ‘Local Governments of India’ and ‘Government of the Presidency,’ as used in this Act, shall be deemed to include, and to have always included, every person who is a ‘Local Government’ as defined in section 2, clause (10), of the General Clauses Act, 1868.”<sup>1</sup>

Addition to  
Act X of  
1841.

Definition of  
“Local Gov-  
ernment.”

of 1868.

## “THE SCHEDULE.

“ (See section 8.)

ACT X, 1841.

Certificate of Survey.

Name of Ship.	Port of intended Registry.	Official Number, if there has been any former Registry.	
Whether a Sailing or Steam Ship, and, if a Steam Ship, how propelled.	Where Built.	When Built.	Name and Address of Builders.
Number of Decks . . . . .	Length from fore part of stem, under the bow-sprit, to the aft side of the head of the stern post . . . . . Main breadth to outside of plank . . . . . Depth in hold from tonnage deck to ceiling at midships . . . . . Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards . . . . . Length of engine room, if any . . . . .		Feet. Tenth.
Number of Masts . . . . .			
Rigged . . . . .			
Stern . . . . .			
Build . . . . .			
Galleries . . . . .			
Head . . . . .			
Framework . . . . .			

## “PARTICULARS OF ENGINES (IF ANY).

No. of Engines.	Description.	Whether British or Foreign made.	When made.	Name and Address of Makers.	Diameter of Cylinders.	Length of Stroke.	No. of Horses' Power (combined).
			Engines.				
			Boilers.				

<sup>1</sup> See now the General Clauses Act, 1897 (X of 1897), printed, *infra*, p. 316.

“PARTICULARS OF TONNAGE.

GROSS TONNAGE.	No. of Tons.	DEDUCTION ALLOWED.	No. of tons.
Under Tonnage Deck . Closed-in spaces above the Tonnage Deck, if any . Space or spaces between Decks . . . . . Poop . . . . . Forecastle . . . . . Round-House . . . . . Other closed-in spaces, if any, as follows :		On account of space required for propelling power . On account of spaces occupied by Seamen or Apprentices and ap- propriated to their use and kept free from goods or stores of every kind not being the per- sonal property of the Crew . These spaces are the following, namely :—	
Gross Tonnage . . . . .		Cubic metres.	
Deduction, as <i>per contra</i> . . . . .			
Registered Tonnage . . . . .		TOTAL . . . . .	

I, the undersigned—  
having surveyed the above-named Ship, hereby certify that the above particulars are true.

Dated at— . . . . .

this— . . . . . day of {

18— . . . . . }

Surveyor.”

\* ACT No. IX OF 1891.<sup>1</sup>

[13th March, 1891.]

An Act to amend the Indian Merchandise Marks Act, 1889,<sup>2</sup>  
and the Sea Customs Act, 1878.<sup>3</sup>

WHEREAS it is expedient to amend the Indian Merchandise Marks Act, 1889,<sup>2</sup> and the Sea Customs Act, 1878;<sup>3</sup> It is hereby enacted as follows:—

Repeal of part

1. In section 1, sub-section (2), of the Indian Merchandise Marks Act, 1889,<sup>2</sup>

<sup>1</sup> Short title, “The Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 4; for Report of the Select Committee, see *ibid*, 1891, Pt. V, p. 29; for Proceedings in Council, see *ibid*, 1891, Pt. VI, pp. 6, 26 and 39.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Acts, IV of 1889 and VIII of 1878, declared in force there by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

<sup>2</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 252.

<sup>3</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 168.

(Secs. 2-4.)

1889, the words "subject to the provision of the last section of this Act" are hereby repealed. of section 1  
Act IV, 1889.

7 of 1889. 2. Section 19 of the Indian Merchandise Marks Act, 1889,<sup>1</sup> and the words "*Transitory Provision*" prefixed to the section, are hereby repealed. Repeal of section 19, Act IV, 1889.

III of 1878. 3. In clause (e), sub-clause (ii), of section 18 of the Sea Customs Act, 1878,<sup>2</sup> as amended by section 10, sub-section (1), of the Indian Merchandise Marks Act, 1889,<sup>1</sup> for the words "that place and the country in which it is situated are" the words "the country in which that place is situated is" shall be substituted. Amendment of section 18 (e) (ii), Act VIII, 1878.

7 of 1889. 4. After section 18 of the Indian Merchandise Marks Act, 1889,<sup>1</sup> as amended by this Act, the following shall be added, namely:— Additions to Act IV, 1889.

III of 1878. "19. For the purposes of section 12 of this Act, and clause (f) of section 18 of the Sea Customs Act, 1878,<sup>2</sup> as amended by this Act, the Governor General in Council may, by notification in the Gazette of India, declare what classes of goods are included in the expression 'piece-goods, such as are ordinarily sold by length or by the piece.' Definition of piece-goods.

"20. (1) The Governor General in Council may make rules, for the purposes of this Act, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the number of samples to be selected and tested and for the selection of the samples. Determination of character of goods by sampling.

"(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub-section (1), the Court or officer of customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge or weight of the goods, shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected.

"(3) The average of the results of the testing in pursuance of rules under sub-section (1) or of an order under sub-section (2) shall be *prima facie* evidence of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

"(4) If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1) or of an order under sub-section (2) desires that any further samples of the goods be selected and tested, they shall, on his written application and on the payment in advance by him to the Court or officer of

<sup>1</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 252.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 168.

customs, as the case may be, of such sums for defraying the cost of the further selection and testing as the Court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Governor General in Council in this behalf or as, in the case of goods with respect to which provision is not made in such rules, the Court or officer of customs may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

“(5) The average of the results of the testing referred to in sub-section (3) and of the further testing under sub-section (4) shall be conclusive proof of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

“(6) Rules under this section shall be made after previous publication.

Information  
as to commis-  
sion of  
offences.

“21. An officer of the Government whose duty it is to take part in the enforcement of this Act shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act.

Punishment  
of abetment  
in India of  
acts done  
out of India.

“22. If any person, being within British India, abets the commission, without British India, of any act which, if committed in British India, would under this Act, or under any section of that part of Chapter XVIII of the Indian Penal Code<sup>1</sup> which relates to trade, property and other marks, be an offence, he may be tried for such abetment in any place in British India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.”

XLV of

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<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

1891: Act X.]

Penal Code. (Sec. 1.)

25

1891: Act XI.]

Factories. (Secs. 1-2.)

ACT No. X OF 1891.<sup>1</sup>

[19th March, 1891.]

An Act to amend the Indian Penal Code<sup>2</sup> \* \* \* \* \*

WHEREAS it is expedient to amend the Indian Penal Code \* \* \* \* \*;<sup>3</sup>  
It is hereby enacted as follows:—

*Indian Penal Code.*<sup>2</sup>

1. In section 375 of the Indian Penal Code,<sup>2</sup> in the clause marked *Fifthly* and in the *Exception*, the word “twelve” shall be substituted for the word “ten”.  
\* \* \* \* \*

Amendment  
of section  
375, Act  
XLV, 1860.

\* \* \* \* \*

ACT No. XI OF 1891.<sup>5</sup>

[19th March, 1891.]

A. Act to amend the Indian Factories Act, 1881.<sup>6</sup>

WHEREAS it is expedient to amend the Indian Factories Act, 1881;<sup>6</sup> It is hereby enacted as follows:—

- 1 (1) This Act may be called the Indian Factories Act, 1891; and
- (2) It shall come into force on the first day of January, 1892.

Short title  
and com-  
mencement.

2. The words and figures “and shall come into force on the first day of July, 1881,” in section 1 of the Indian Factories Act, 1881,<sup>6</sup> are hereby repealed.

Repeal of  
part of sec-  
tion 1, Act  
XV of 1881.

<sup>1</sup> Short title, “The Indian Criminal Law Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 5; for Report of the Select Committee, see *ibid*, p. 55, and for Debates in Council, see *ibid*, Extraordinary, dated 12th January, 1891, p. 3, and Pt. VI, pp. 6 and 39.

As being part of Act XLV of 1860 the Act is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899; it has been extended under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874) to British Baluchistan, see Gazette of India, 1892, Pt. II, p. 367. It has also been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, p. 597, see Calcutta Gazette, 1892, Pt. I, p. 448.

<sup>2</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>3</sup> The rest of the title and preamble relates to the Code of Criminal Procedure, 1882 (Act X of 1882), which was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

<sup>4</sup> The rest of the Act, ss. 2 and 3, was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

<sup>5</sup> For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 6; for Report of the Select Committee, see *ibid*, 1891, p. 43; and for Proceedings in Council, see *ibid*, 1890, Pt. VI, pp. 10 and 17, and *ibid*, 1891, Pt. VI, p. 86.

<sup>6</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 382.

XLV of  
1860.

XLV of  
1860.

XV of 1881.

XV of 1881.

(Secs. 3-10.)

Amendment  
of definition  
of "factory"  
in section 2,  
Act XV,  
1881.

3. For clause (b) in section 2 of the said Act, in the definition of the word "factory," the following shall be substituted, namely:—

"(b) wherein, subject to the provisions of section 20, not less than fifty persons are on any day simultaneously employed in any manual labour in, or incidental to, any such process; and".

Amendment  
of definition  
of "em-  
ployed" in  
section 2, Act  
XV, 1881.

4. (1) For the word "child" in the same section of the said Act, in the definition of the word "employed", the word "person" shall be substituted.

(2) In the same section of the said Act, in the definition of the word "employed", the word "either" is hereby repealed.

Amendment  
of sections 2,  
4, 5 and 16,  
Act XV, 1881.

5. For the word "twelve" in sections 2, 4, 5 and 16 of the said Act, the word "fourteen" shall be substituted.

Amendment  
of section 3,  
Act XV,  
1881.

6. (1) In the first paragraph of section 3 of the said Act, after the word "appoint" the word "by name or by office," shall be inserted.

(2) For the second paragraph of the same section of the said Act, the following shall be substituted, namely:—

"The District Magistrate shall, in virtue of his office, be an Inspector of all factories, if any, in his district."

Amendment  
of section 4,  
Act XV,  
1881.

7. In clause (b) of section 4 of the said Act, for the word "provisions" the word "purposes" shall be substituted.

Amendment  
of section 5,  
Act XV,  
1881.

8. In section 5 of the Act, before the word "examine" the words "and on payment by such person of such fee, if any, as may from time to time be prescribed by the Governor General in Council by notification in the Gazette of India" shall be inserted.

Amendment  
of sections 4,  
5 and 16, Act  
XV, 1881.

9. For the word "seven" in sections 4, 5 and 16 of the said Act the word "nine" shall be substituted.

Substitution  
of new sec-  
tions for sec-  
tions 6 to 11,  
Act XV, 1881.

10. For sections 6 to 11, both inclusive, of the said Act, and for the heading "*Children*" prefixed to the said section 6, the following shall be substituted, namely:—

*"All Operatives.*

Amended  
stoppage of  
work daily  
at certain  
circum-  
stances.

"5A. (1) In every factory, except a factory in which a system of employment in shifts or sets approved by the local Inspector is in force, there shall between noon and two o'clock in the afternoon be a stoppage of work for a full half-hour :

(2) Provided that nothing in this section shall apply to any factory of a

class to which the Governor General in Council has, by notification in the Gazette of India, declared this section not to apply.<sup>1</sup>

"5B. (1) No person shall be employed in any factory on a Sunday :

Holidays.

(2) Provided as follows :—

- (a) any manager, foreman, mechanic, artizan or labourer may be employed in a factory on a Sunday in examining or repairing, or in supervising or aiding in the examination or repair of, any machinery or other thing whatsoever necessary for the carrying on of the work performed in the factory ;
- (b) any person may be employed in a factory on a Sunday if he has had or will have a holiday for a whole day on one of the three days immediately preceeding or succeeding the Sunday ;
- (c) the Local Government may from time to time, by notification in the official Gazette, declare<sup>2</sup> sub-section (1) of this section not to apply to any factory or class of factories (the factory or class being described in the notification) in which the work performed—
  - (i) necessitates continuous production for technical reasons, or
  - (ii) supplies the public with articles of prime necessity which must be made every day, or
  - (iii) by its nature cannot be carried on except at stated seasons or at times dependent on the irregular action of natural forces ;
 and
- (d) the Governor General in Council may from time to time, by notification in the Gazette of India, declare sub-section (1) of this section not to apply to factories of any class described in the notification.

#### " Women.

"6. (1) No woman shall be employed before five o'clock in the morning or after eight o'clock in the evening in any factory in which a system of employment in shifts or sets approved by the local Inspector is not in force. Employment of women.

(2) No woman shall be actually employed in any factory in any one day for more than eleven hours.

(3) Every woman shall be allowed an interval or intervals of rest amounting in the aggregate to at least an hour-and-a-half in the day when she is actually employed for eleven hours and to a proportionately less time when she is actually employed for less than eleven hours.

<sup>1</sup> See the seventh footnote on page 383, General Acts, Vol. III, Ed. 1898.

<sup>2</sup> For declarations issued under this provision, see footnote on p. 384, General Acts, Vol. III, Ed. 1898.

(4) The Governor General in Council may from time to time, by notification in the Gazette of India, declare all or any of the foregoing sub-sections of this section not to apply to factories of any class described in the notification or to women employed in any process so described.

*"Children."*

Employment  
of children.

"7. (1) No child shall be employed in any factory if he is under the age of nine years.

(2) No child shall be employed in any factory before five o'clock in the morning or after eight o'clock in the evening.

(3) No child shall be actually employed in any factory for more than seven hours in any one day.

(4) Every child who is actually employed in any factory for six hours in any one day shall be allowed an interval or intervals of rest amounting in the aggregate to at least half-an-hour.

Prohibition  
of employ-  
ment of child  
in certain  
dangerous  
work.

"8. No occupier of a factory shall allow any child to clean any part of the mill-gearing or machinery of such factory while the same is in motion, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of the steam-engine, water-wheel or other mechanical power, as the case may be.

Register of  
children in a  
factory.

"9. The Local Government may direct any occupier of a factory to keep,<sup>1</sup> in such form and with such particulars as such Government may from time to time prescribe, registers of the children (if any) employed in such factory, and of their respective employments.

*"Women and Children."*

"10. (1) The occupier shall set up and maintain, in some conspicuous place in the factory, a printed or written notice, in English and the languages of the district in which the factory is situated, showing the times at which such intervals as are required by section 6, sub-section (3), and section 7, sub-section (4), to be allowed to women and children, respectively, shall be allowed and the length of each interval.

(2) A woman or child shall not be deemed to be actually employed within the meaning of section 6 or section 7 during any such interval as aforesaid.

"11. No occupier of a factory shall employ therein on any day any woman or child who has to his knowledge already been employed on the same day in any other factory."

<sup>1</sup> For notifications issued under this provision, see footnote on p. 385, General Acts, Vol. III, Ed. 1898.

Provisions  
supplement-  
ary to sec-  
tions 6 and 7.

Prohibition  
of employ-  
ment of  
woman or  
child in  
factories  
on same day.



(Secs. 11-14.)

11. In clause (a) of section 12 of the said Act the word "or", where it first occurs, is hereby repealed.

Amendment of section 12, Act XV, 1881.

12. In section 13 of the said Act, after the word "hours" the word "next" shall be inserted, and for the words "such accident" the words "the accident" shall be substituted.

Amendment of section 13, Act XV, 1881.

13. (1) In section 14 of the said Act, before the words "the place" the words "and of" shall be inserted.

Amendment of section 14, Act XV, 1881.

(2) The words "(if any)" in the same section of the said Act are hereby repealed.

14. For section 15 of the said Act the following shall be substituted, namely:—

Substitution of new section for section 15, Act XV, 1881.

"15. (1) Any person who, in breach of this Act or of any order or rule made thereunder,—

Penalties.

(a) employs any person in any factory;

(b) allows any child to perform the work forbidden by, or to work in contravention of, section 8;

(c) neglects to keep a register in manner prescribed under section 9;

(d) neglects to set up or maintain the notice required by section 10, sub-section (1);

<sup>1</sup>(e) neglects to fence any machinery or mill-gearing in any factory;

(f) neglects to maintain a supply of water for the use of persons employed in any factory;

(g) neglects to ventilate any factory or to keep any factory in a cleanly state and free from effluvia arising from any drain, privy or other nuisance;

(h) suffers any factory to be so overcrowded, while work is carried on therein, as to be injurious to the health of the persons employed therein; or

(i) neglects to send any notice or furnish any return,

shall be punished with fine which may extend to two hundred rupees:

Provided that—

(i) no prosecution under this sub-section shall be instituted except by, or with the previous sanction of, the local Inspector; and

(ii) no person shall be liable under this sub-section to more than one

<sup>1</sup>Cf. the Factories Act, 1844 (7 & 8 Vict., c. 15), s. 43; and the Factories Act, 1856 (19 & 20 Vict., c. 38), s. 6. Both Acts are repealed by the Factories and Workshops Act, 1878 (41 & 42 Vict., c. 16).

penalty for any one description of offence committed on the same day, except where two or more persons are employed contrary to the provisions of this Act, in which case one penalty may be imposed in respect of each person so employed.

(2) Any person who corruptly uses or attempts to use, as a certificate granted to himself under section 5, a certificate granted to another person under that section, or who, having procured a certificate under the said section, corruptly allows it to be used, or an attempt to use it to be made, by another person, shall be punished with fine which may extend to twenty rupees."

Amendment  
of section 17,  
Act XV,  
1881.

15. For section 17 of the said Act the following shall be substituted, namely:—

Occupier  
primarily  
liable for  
breaches of  
Act or orders  
or rules  
thereunder.

"17. Every occupier of a factory shall be deemed primarily liable for any breach therein of this Act or of any order or rule made thereunder; but he may discharge himself from such liability by proof that such breach was committed by some other person without his knowledge or consent, and in that case the person committing such breach shall be liable therefor."

Amendment  
of section 18,  
Act XV,  
1881.

16. (1) For section 18 of the said Act the following shall be substituted, namely:—

Power to  
make rules.

"18. (1) Subject to the control of the Governor General in Council, the Local Government may from time to time make rules consistent with this Act to provide for<sup>1</sup>—

- (a) the fencing of machinery and mill-gearing in factories;
  - (b) the water-supply to be maintained for the use of persons employed in factories;
  - (c) the ventilation of factories and their cleanliness (including lime-washing, painting, varnishing and washing) and freedom from effluvia arising from any drain, privy or other nuisance;
  - (d) the prevention of such overcrowding of factories, while work is carried on therein, as is likely to be injurious to the health of the persons employed therein;
  - (e) the inspection of factories;
  - (f) the manner in which appeals under this Act are to be presented and heard; and
  - (g) otherwise carrying out the purposes of this Act.
- (2) The Governor General in Council may from time to time make rules

<sup>1</sup> For rules issued in accordance with this provision, see the footnote to s. 18 as printed in General Acts, Vol. III, Ed. 1893, p. 358.

requiring occupiers of factories to furnish such returns, occasional or periodical, as may be necessary for the effectual carrying out of this Act.

(3) Such rules shall be published in the local official Gazette, or the Gazette of India, as the case may be, and shall thereupon have the force of law.

(4) Before making rules under clause (b), clause (c) or clause (d) of sub-section (1) of this section the Local Government, and before making rules under sub-section (2) of this section the Governor General in Council, shall publish in such manner as may in its or his opinion be sufficient for giving information to persons interested a draft of the proposed rules, with a notice specifying a date (not less remote than two months from the publication of the notice) at or after which the draft will be taken into consideration, and shall consider any objection or suggestion which may be received from any person with respect to the draft before the date so specified."

17. In section 19 of the said Act, the word "such," where it occurs before the word "factory," is hereby repealed.

18. To the said Act the following shall be added, namely :—

"20. (1) Notwithstanding anything in clause (b) of the definition of the word "factory" in section 2, the Local Government may from time to time, by notification in the official Gazette, declare any premises or premises of any class, which fulfil the other conditions of the said definition, to be a factory for all the purposes of this Act, or for such of those purposes as may be specified in the notification, if the number of persons simultaneously employed in the premises on any day in any manual labour in, or incidental to, any such process as is referred to in the said clause (b) is less than fifty and not less than twenty.

(2) The Local Government may, by such notification, fix any number below fifty and not below twenty as the number of persons whose simultaneous employment as aforesaid is to be held to subject premises, as a factory, to all or any of the provisions of this Act and of the orders and rules made thereunder."

19. A reference in any enactment or document to the Indian Factories Act, 1881,<sup>1</sup> shall be read as a reference to that Act as amended by this Act.

Amendment  
of section 19,  
Act XV,  
1881.

Addition of  
a section to  
Act XV,  
1881.

Power to  
Local Gov-  
ernment to  
extend defini-  
tion of  
"factory."

References to  
Act XV of  
1881 to be  
read as  
references to  
that Act as  
amended by  
this Act.

ACT No. XII OF 1891.<sup>1</sup>

[21st March, 1891.]

An Act to repeal certain Obsolete Enactments and to amend certain other Enactments.

WHEREAS it is expedient that certain enactments specified in the first schedule to this Act which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed ;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act ;

It is hereby enacted as follows :—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Repealing and Amending Act, 1891.

(2) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India, inclusive of Upper Burma and British Baluchistan ; and

(3) It shall come into force at once.

Enactments  
in schedules  
repealed and  
amended  
respectively.

2. (1) The enactments specified in the first schedule are hereby repealed to the extent mentioned in the fourth column thereof.

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof ; but nothing in this sub-section shall affect any Act passed after this Act comes into force by the Governor of Madras in Council, the Governor of Bombay in Council, the Lieutenant-Governor of Bengal in Council or the Lieutenant-Governor of the North-Western Provinces and Oudh in Council.

(3) The modifications hereby made in the Foreign Jurisdiction and Extra-  
dition Act, 1879, section 6, and the Cantonments Act, 1889, section 19, shall  
have effect as from the commencement of those Acts respectively. XXI  
XII

Savings.

3. The repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 214 ; for Report of the Select Committee, see *ibid.*, 1891, p. 65 ; and for Proceedings in Council, see *ibid.*, 1890, Pt. VI, p. 142, and *ibid.*, 1891, p. 111.

This Act has been declared in force in the Santhál Parganas, by notification under s. 3 of the Santhál Parganas Settlement Regulation (III of 1872) as amended by the Santhál Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, p. 597, see Calcutta Gazette, 1892, Pt. I, p. 448.

The Act so far as it may be applicable has been extended to the Shan States, by the Shan States Laws and Criminal Justice Order, 1895, see Burma Gazette, 1895, Pt. I, p. 262.

*(The First Schedule.—Enactments repealed.)*

already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

## THE FIRST SCHEDULE.

## ENACTMENTS REPEALED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

*Part I.—Acts of the Governor General in Council.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1835	II	Control of officers in Assam, Arakan and Tenasserim.	So much as has not been repealed.
„	VI	Control of officers in Khasi Hills and Cachar.	So much as has not been repealed.
„	XXI	Assistant to Agent for Sardárs, Dekkhan.	In section 1, <i>the words</i> and in the trial of such suits the Assistant shall follow the same rules which are now applicable to the Agent <i>and the words and figures</i> under the provisions of Chapter XXII, Regulation IV of 1827 of the Bombay Code.
1836	X	Indigo-contracts	The whole Act, so far as it applies to Assam.
„	XXVI	Camp Police	So much as has not been repealed.

THE FIRST SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1838	V	Bengal Bonded Ware-house.	<i>The words</i> And it is hereby enacted that, <i>wherever they occur.</i>  In sections 3, 5, 7, 8, 9, 10, 17, 18, 20, 22, 23, 24 and 27, <i>the word that wherever it occurs after the word and.</i>  In section 31, <i>the word that where it occurs after the word but.</i>
"	XXV	Wills . . . .	In sections 2 to 5, 7 to 29 and 31, <i>the words</i> And it is hereby enacted that.  In section 2, <i>the words</i> except so far as relates to His Majesty's colonies and plantations in America.  In sections 3 and 31, <i>the word that wherever it occurs.</i>  In section 4, <i>the word that where it occurs before the words the power.</i>  In section 6, <i>the words</i> provided also and it is hereby enacted that.  Section 30.
1839	VII	Tahsildars, Madras .	Section 4.
"	XXIV	Ganjam and Vizagapatam.	In section 7, <i>the word</i> fourth.
"	XXVII	Execution by the Court of Requests, Calcutta, of decrees of Courts of 24-Pergunnahs.	The whole.
"	XXIX	Dower .	In sections 2 to 10, 12 and 14, <i>the words</i> And it is hereby further enacted that.  In section 11, <i>the words</i> And it is hereby further enacted.  In section 15, <i>the words</i> And it is hereby provided that.  Section 13.

(The First Schedule.—Enactments repealed.)

THE FIRST SCHEDULE—*contd.*Part I.—*Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1839	XXX	Inheritance . . .	<i>The words</i> And it is hereby further enacted that <i>and</i> And it is hereby further enacted and declared that, <i>wherever they occur.</i>  In section 7, <i>the words</i> also that <i>and the word</i> that.  In section 13, <i>the words</i> And it is hereby provided that.
1840	X	Temple of Jagannath . . .	So much as has not been repealed.
1841	XXIV	Illusory appointments, etc.	Section 4, so far as it relates to section 10 of the Statute 11 George IV & 1 William IV, chapter 47.  Section 5, <i>from</i> or any proceedings <i>to the end.</i>
1842	IX	Lease and Release . . .	So far as it has not been repealed.
1844	VI	Land-customs, Madras . . .	In the title, <i>the word</i> abolishing, <i>the words</i> transit or <i>and the words</i> for revising the duties on imports and exports by sea, and for determining the price at which salt shall be sold for home consumption.
1846	I	Pleadings . . .	In section 6, <i>the words and figures</i> Section 25, Regulation XXVII, 1814, of the Bengal Code; Section 25, Regulation XIV, 1816, of the Madras Code; and.  In section 13, <i>the numerals</i> VII.
1847	IX	Assessment of new lands	In section 1, <i>the words</i> and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date shall forthwith be discontinued.
1848	X	Mandvee . . .	So much as has not been repealed.
"	XVIII	Nawab of Surat . . .	Section 2.  In the schedule, the names and descriptions numbered 1, 2, 3, 5, 6 and 7.
1850	XXV	Forfeited deposits . . .	In the title, <i>the words and figures</i> and Act IV, 1846.

(The First Schedule.—Enactments repealed.)

THE FIRST SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal
1850	XXV — <i>contd.</i>		In the preamble, <i>the words</i> and judgment-debtors, <i>the words and figures</i> and in section V, Act IV, 1846, <i>and the words</i> in execution of decrees or.
"	XXXIV	State Prisoners . . .	Section 3.
1853	VI	Summary suits for arrears of rent, etc.	In the preamble, <i>the words and figures</i> from and whereas it is expedient to Act VIII, 1835, <i>and the words</i> from and to prevent to wrong district.
"	VIII	Colaba . . .	So much as has not been repealed.
"	XIX	Evidence . . .	In section 26, <i>the words</i> in addition to any proceedings under this Act.
1855	X	Witnesses . . .	In the title, <i>the words and figures</i> and to amend the provisions of section XL, Act XIX of 1853.
"	XXIV	Penal Servitude . . .	In the title, <i>the words</i> and to amend the law relating to the removal of such convicts.  In the preamble, <i>the words</i> and to amend the law relating to the removal of European and American convicts for the purpose of imprisonment.
"	XXXVII	Santhal Districts . . .	In section 1, clause 1, <i>the words</i> extend to or affect any case now pending in any Court, nor.
1856	XII	Civil Court Amins . . .	In the preamble, <i>the words and figures</i> from and whereas to other agency.  Section 10, from Whenever to the end.
"	XIII	Police . . .	In section 1, <i>the words and figures</i> from Sections XXII to the end.  In section 2, definition of "Local Government," <i>the words</i> in the possession and, <i>the words</i> the East, <i>and the word</i> Company.  In section 3, <i>the words and figure</i> except as is otherwise provided by section 1 of this Act.  Form B in the Schedule of Forms.



(The First Schedule.—Enactments repealed.)

## THE FIRST SCHEDULE—contd.

## Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title	Extent of repeal.
1856	XVIII	Collector of Calcutta .	In the preamble, <i>the words</i> should have charge of the collection of the stamp-duty within the town of Calcutta, and that he.  Section 1.  In section 3, <i>the words and figures</i> the said Regulation, or under Act XI of 1849, or.
„	XX	Chaukidars . .	In sections 10, 21, 33, 34, 36 and 59, <i>the words</i> of Circuit.  Section 60.
„	XXII	Tolls, Karatoya River .	In section 5, <i>the words and figures</i> Regulation I of 1824, or of.
1857	II	Calcutta University .	In section 1, <i>the words</i> in the possession and, <i>the words</i> the East, and <i>the word</i> Company.
„	IV	Tobacco, Bombay Town	Section 2, <i>from</i> and such duty <i>to the end</i> .  Section 5, <i>from</i> The import-duty <i>to the end</i> .
„	XIII	Opium . . .	In the preamble, <i>the words</i> that certain obsolete Regulations relating to the provision of opium should be formally repealed, and.
„	XXI	Howrah . . .	Section 54, the second proviso.  Section 58.
„	XXII	Bombay University .	In section 1, <i>the words</i> in the possession and, <i>the words</i> the East, and <i>the word</i> Company.
„	XXV	Forfeiture of property .	In the title, <i>the words</i> to render officers and soldiers in the Native Army liable to forfeiture of property for mutiny, and.  In the preamble, <i>the words</i> to render officers and soldiers in the Native Army, who shall be convicted of mutiny, subject to the forfeiture of all their property, and.
„	XXVII	Madras University .	In section 1, <i>the words</i> in the possession and, <i>the words</i> the East, and <i>the word</i> Company.
1858	III	State Prisoners . .	Section 4.

THE FIRST SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal
1858	III — <i>contd.</i>		In section 5, <i>the words</i> in the possession and, <i>the words</i> the East, and <i>the word</i> Company.
„	XXXVII	Nawáb of the Carnatic .	The preamble, <i>from</i> and that <i>to</i> commencement of this Act.  Section 2.  Schedules B and C.
1859	IX	Claims to property seized as forfeited.	In the preamble, <i>the words from</i> to make provision <i>to</i> also expedient.
„	X	Rent . . . . .	The schedule, Forms E and F.
„	XI	Sales of land for arrears of revenue.	Section 4.  In section 53, <i>the words and figures</i> sharers in estates under butwarah who may have saved their shares from sale under sections XXXIII and XXXIV, Regulation XIX, 1814, and.
1860	XIV	King of Oudh . . . .	The whole.
„	XXII	Hill Tracts of Chittagong.	Section 1, proviso.
„	XXIII	Amending Act XXI of 1856 (Abkari).	The whole Act, so far as it applies to Assam.
„	XLV	Indian Penal Code . .	In section 1, <i>the words and figures</i> on and from the first day of May, 1861.  In sections 1 and 15, <i>the words</i> except the Settlement of Prince of Wales' Island, Singapore and Malacca  In sections 2 and 4, <i>the words and figures</i> on or after the said first day of May, 1861.  In section 410, <i>the word</i> the, <i>where it occurs after the word</i> which.
1862	VII	King of Oudh . . . .	So much as has not been repealed
1863	XVI	Spirits used in Manufactures, etc.	Section 8.

THE FIRST SCHEDULE—*contd.**(The First Schedule.—Enactments repealed.)**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1864	XVII	Official Trustees	Section 3.
1865	VII	Government Forests Act, 1865.	The whole Act, so far as it has not been repealed by the Indian Forest Act, 1878, and the Lower Burma Forest Act, 1881.
"	X	Indian Succession Act, 1865.	In section 3, <i>the words</i> other than the Settlement of Prince of Wales' Island, Singapore and Malacca.
1866	XXI	Native Converts' Marriage Dissolution Act, 1866.	In section 35, <i>the words</i> except the Settlement of Prince of Wales' Island, Singapore and Malacca.
"	XXV	Transfer to Government of deposits in High Courts.	In the first schedule, <i>the words</i> Rs. two.
"	XXV	Transfer to Government of deposits in High Courts.	In the preamble, <i>the words</i> or in the late Supreme Courts at Calcutta, Madras and Bombay, respectively, <i>and the words</i> now or hereafter.
"	XXV	Transfer to Government of deposits in High Courts.	In section 1, <i>the words</i> or of the late Supreme Courts of Calcutta, Madras and Bombay, <i>and the words</i> now or hereafter.
1867	XXII	Sarāis Act, 1867 . . .	Section 1.
"	XXIII	Murderous Outrages. Punjab.	In section 17, <i>the words</i> and the Settlement of Prince of Wales' Island, Singapore and Malacca.
"	XXIII	Murderous Outrages. Punjab.	Section 17.
"	XXV	Printing Presses and Books.	In section 1, <i>the words</i> other than the Settlement of Prince of Wales' Island, Singapore and Malacca.
1 *	*	*	* * *
1868	V	Commissioner in Sindh	The schedule, so far as it relates to Act XXVI of 1850.
"	XVIII	Small Cause Jurisdiction, Nilgiris.	So much as has not been repealed.
"	XXI	Nawāb of the Carnatic	The whole.

<sup>1</sup> The entry relating to Act I of 1868 was repealed by the General Clauses Act, 1897 (X of 1897), printed, *infra*, p. 316.

(The First Schedule.—Enactments repealed.)

THE FIRST SCHEDULE—*contd.*Part I.—*Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title	Extent of repeal.
1869	XIV	Bombay Civil Courts Act, 1869.	In section 32, proviso, clause (b) [added by Act XV of 1880, section 3], <i>the words and figures</i> or selected under Act No. XX of 1864 ( <i>for making better provision for the care of the persons and property of minors in the Presidency of Bombay</i> ), section 9, <i>and the words</i> or selection. <sup>1</sup>
1870	VII	Court-fees Act, 1870 .	In section 3, <i>the word</i> sixteen.  In section 7, paragraph iv, last clause, <i>the words</i> and the provisions of the Code of Civil Procedure, section thirty-one, shall apply as if for the word 'claim' the words 'relief sought' were substituted.  Section 10, clause iii.  Section 19, clause ii.  In section 19C (inserted by Act XIII of 1875, section 6), first line, <i>the word</i> such.  In section 19G (inserted by Act XIII of 1875, section 6), <i>the words and figures</i> after the first day of April, 1875, or.  Sections 24 and 32.  Schedule II, Articles 8 and 9.
"	XXI	Hindu Wills Act, 1870 .	In section 6, <i>the words</i> and Parts.
"	XXVI	Prisons Act, 1870 .	In section 9, <i>the words</i> (subject to the approval of the Governor General of India in Council).
"	XXVII	Amending the Indian Penal Code.	Sections 7, 9 and 14.
1871	II	Extending the Prisons Act, 1870, to Coorg.	So much as has not been repealed.
"	IV	Coroners Act, 1871 .	Section 4, the second paragraph.
"	XXI	Dehrá Dun . .	Section 1, <i>from</i> and no judgment <i>to the end</i> .

<sup>1</sup> Cf. also s. 3 of the Bombay Civil Courts Act Amendment Act, 1895 (III of 1895).

THE FIRST SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1871	XXI — <i>contd.</i>		In section 2, <i>the words</i> and shall be deemed to have been heretofore authorized to exercise.
			In section 3, <i>the words</i> shall be deemed to have been heretofore the District Court of the said district of Delhrá Dum, and, <i>and the words and figures</i> and may, subject to the provisions of Act VI of 1871, hear appeals from decisions given in the said district before the passing of this Act.
			In section 4, <i>the words and figures</i> and referred to in section eleven of Act XXIV of 1864.
"	XXII	Amending Act XX of 1856 (Chaukidárs).	Section 5.
"	XXIII	Pensions Act, 1871	In section 6, <i>the words</i> but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal.
"	XXVI	Land Improvement Act, 1871.	Section 1, <i>from</i> but not so as to affect <i>to the end</i> .
"			The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
1872	IV	Punjab Laws Act, 1872.	Section 33.
			Section 39G (inserted by Act XV of 1875, section 2).
			The first schedule, so far as it relates to Act XVII of 1861.
"	XV	Indian Christian Marriage Act, 1872.	In section 68 (as amended by Act II of 1891, section 6), <i>the words</i> "and to amend the law relating to the removal of such convicts."
1873	III	Madras Civil Courts Act, 1873.	In section 13, <i>the words and figures</i> or appeals under Madras Regulation XI of 1832, section 9.
			Section 29, the second and third paragraphs.

THE FIRST SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal
1873	IV	Punjab Municipal Act, 1873.	So far as it has not been repealed.
"	V	Government Savings Banks Act, 1873.	In section 5, <i>the words</i> the said.
"	XVI	North-Western Provinces Village and Road Police Act, 1873.	In section 1, <i>the words and figures</i> so far as regards the repeal of Act No. III of 1869, this Act extends to the whole of British India: the rest of.
"	XIX	North-Western Provinces Land-revenue Act, 1873.	Section 2, the third paragraph.
"	XX	Prince of Arcot's Privilege Act, 1873.	The whole.
1874	I	Quieting of Titles, North-Western Provinces.	The whole.
"	III	Married Women's Property Act, 1874.	In section 9, <i>the words</i> affect any suit instituted before the passing of this Act, nor.
"	VIII	Exercise of Powers in Assam.	Section 3.
"	XIV	Scheduled Districts Act, 1874.	In section 10, <i>the words and figures</i> and No. XXV of 1869.  In the first schedule, Part I, No. 1, <i>the figure and words</i> (9) the Chighatti Maliah.  The first schedule, Part XIII.
"	XV	Laws Local Extent Act, 1874.	Section 8, clause (f).  The first schedule, so far as it relates to Acts IX of 1842, XVIII of 1854, VIII of 1859, XIV of 1859, XV of 1859, XXIII of 1861, VI of 1863, X of 1866 and X of 1868.  The second schedule, so far as it relates to Madras Regulations III of 1802, section 11, I of 1805, II of 1807, IV of 1816, IX of 1816 and XIV of 1816 and Acts XVII of 1840, VII of 1852 and XI of 1869.

(The First Schedule.—Enactments repealed.)

THE FIRST SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1874	XV — <i>contd</i>		<p>The third schedule, so far as it relates to Bombay Regulations XII of 1827, preamble, XVI of 1827 and XXI of 1827 and Acts XI of 1843, III of 1852 and XXI of 1852.</p> <p>The fourth schedule, so far as it relates to Bengal Regulations XLVIII of 1793, III of 1794, section 12, XV of 1797, I of 1798, XVII of 1806, XI of 1811, XIX of 1814, XX of 1817, sections 28 and 32, and VI of 1819 and Acts XX of 1836, XI of 1838, XX of 1856, XXI of 1856 and XXXIII of 1860.</p> <p>The fifth schedule, so far as it relates to Bengal Regulations I of 1798, XVII of 1806, XIX of 1810, V of 1817, VI of 1819, VI of 1831 and XI of 1831, sections 4 and 8.</p> <p>In the sixth schedule, Part I, No. 1, <i>the figure and words</i> (9) the Chighatti Maliah.</p> <p>The sixth schedule, Part XIII.</p>
1875	XIII	Probates and Letters of Administration.	<p>Section 1.</p> <p>So much of section 6 as directs the insertion of section 19H in the Court-fees Act, 1870.</p>
„	XV	Punjab Laws Amendment Act, 1875.	<p>Section 2, so far as it applies to the Punjab and relates to sections 39A and 39B.</p> <p>Section 2, so far as it relates to section 39G.</p>
„	XX	Central Provinces Laws Act, 1875.	<p>Section 2, proviso.</p> <p>In the third column of Part A of the schedule, in the entry opposite Regulation XI of 1806, <i>the words and figures</i> and with the exception, in section VIII, of the words and figures “under the rules prescribed by Regulation V, 1804.”</p> <p>The schedule, so far as it relates to Bengal Regulation VI of 1819 and Act XVIII of 1853.</p>
1876	X	Bombay Revenue Jurisdiction Act, 1876.	Section 2, and the schedule referred to therein.

THE FIRST SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title	Extent of repeal.
1876	XII	Repealing Act, 1876 .	The whole.
"	XVII	Oudh Land-revenue Act, 1876.	In section 150, <i>the words</i> stamped or. Section 178, clause (p).
"	XVIII	Oudh Laws Act, 1876 .	Sections 17, 18 and 41.  In the third column of Part I of the second schedule, in the modifications of Regulation XXXIII of 1803, <i>the words</i> for "city" read "jurisdiction," <i>and the words and figures</i> In section IV, omit the words "or in either of the cities of Patna, Dacca or Moorshedabad."  In the third column of Part I of the second schedule, in the modifications of section 8 of Regulation XI of 1806, <i>the words and figures</i> and omit the words and figures "(under the rules prescribed by Regulation V, 1804)," and "in Regulation XXVII, 1803."  The second schedule, so far as it relates to Bengal Regulation VI of 1819 and Act XIII of 1857, section 2.
"	XXI	Amending the Land Improvement Act, 1871.	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
"	XXIII	Opium Act, 1876 .	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
1877	I	Specific Relief Act, 1877	Section 2.  In section 9, <i>the words</i> instituted within six months from the date of the dispossession.  The schedule.
"	II	Amending Act XIII of 1875 (Probates and Letters of Administration).	Section 2.
"	III	Indian Registration Act, 1877.	Section 84, the last paragraph.



*(The First Schedule.—Enactments repealed.)*THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal
1877	VI	Postponing operation of the Opium Act, 1876.	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
"	XI	Military Lunatics Act, 1877.	Sections 2 and 9.
"	XV	Indian Limitation Act, 1877.	Section 2, <i>down to the word But</i> . Section 2, the third paragraph. The first schedule.
"	XIX	District Judges . . .	In the preamble, <i>the words</i> the District Judges of the Lower and the North-Western Provinces of the Presidency of Fort William, and.
1878	I	Opium Act, 1878 . . .	Section 2, the first and second paragraphs. The schedule.
"	VI	Indian Treasure-trove Act, 1878.	Section 2. The schedule.
"	XI	Indian Arms Act, 1878 .	Sections 8 and 9. Section 14, the last three paragraphs. The second schedule.
"	XII	Amending the Punjab Laws Act, 1872.	Section 6. Section 7, <i>from All penalties to the end</i> .
"	XIV	Assimilation of Powers, North-Western Provinces and Oudh.	In the preamble, <i>the words</i> and whereas doubts have arisen as to the validity of certain acts done since the said union, and it is expedient to remove such doubts. Section 4, the first paragraph. Section 5, the first paragraph. Sections 7 and 8.
"	XVII	Northern India Ferries Act, 1878.	Section 36.

THE FIRST SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1879	III	Destruction of Records Act, 1879.	Section 9. The schedule.
"	VII	Punjab Additional Financial Commissioner's Act, 1879.	The whole.
"	XII	Amending the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877.	In the title, <i>the words</i> the Code of Civil Procedure. The first preamble. Section 108, so far as it refers to Nos. 171, 171A, 171B and 171C of the second schedule to the Indian Limitation Act, 1877.
"	XVII	Dekkhan Agriculturists' Relief Act, 1879.	Section 48, the second paragraph (inserted by Act XXIII of 1881, section 10).
"	XIX	Raipur and Khattria Laws Act, 1879.	Section 3.
"	XX	Glanders and Farey Act, 1879.	Section 15.
1880	VII	Indian Merchant Shipping Act, 1880.	In section 72 (as amended by Act VI of 1891, section 6), <i>the word</i> But.
"	IX	Bombay Civil Courts Act, 1880.	Section 3.
"	XIV	Indian Census Act, 1880.	The whole.
"	XV	Bombay Revenue Jurisdiction Act, 1880.	The preamble <i>from</i> and to make <i>to</i> 1871.
1881	II	Pegu and Sittang Canal Act, 1881.	Section 22.
"	V	Probate and Administration Act, 1881.	In section 152, <i>the words</i> the said.
"	IX	Administrator General's Act, 1881.	So much of section 5 as has not been repealed. Section 6, <i>from</i> and the words <i>to the end</i> .

<sup>1</sup> The entry relating to the Indian Stamp Act, 1879 (I of 1879), was repealed by the Indian Stamp Act, 1899 (II of 1899).

(The First Schedule. -- Enactments repealed.)

THE FIRST SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year.	No	Subject or title.	Extent of repeal.
1881	XIII	Fort William Act, 1881.	Section 9.
"	XIV	Benares Family Domains Act, 1881.	Sections 2 and 14.
"	XVIII	Central Provinces Land-revenue Act, 1881.	Sections 2 and 3. Section 136W (inserted by Act XVI of 1889, section 26). The schedule.
"	XIX	Lower Burma Forest Act, 1881.	Section 2. The schedule.
"	XXIII	Dekkhan Agriculturists' Relief Act, 1881.	Sections 4, 5 and 16.
"	XXV	Banki Laws Act, 1881.	Section 3. In section 4, <i>the words and figures from And in the following Bengal Regulations to the end.</i>
"	XXVI	Negotiable Instruments Act, 1881.	Section 2. The schedule.
1882	I	Inland Emigration Act, 1882.	Section 2, the first paragraph. In section 2, second paragraph, <i>the words the said.</i> Section 193.
"	II	Indian Trusts Act, 1882.	Section 36, the second paragraph. In the schedule, <i>the figures 39.</i>
"	III	<i>Seditious Publications Act, 1882.</i>	Section 2.
"	VII	Powers-of-attorney Act, 1882.	Section 6.
2 *	*	*	*

<sup>1</sup> The rest of the Act has since been repealed by the Indian Post Office Act, 1898 (VI of 1898), printed, *infra*, p. 683.

<sup>2</sup> The entry relating to the Code of Criminal Procedure, 1882 (Act X of 1882), was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 330.

THE FIRST SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1882	XII	Indian Salt Act, 1882 .	In section 11, <i>the words and figures</i> or under section 11 of the Inland Customs Act, 1875.
"	XIV	Code of Civil Procedure.	Section 539, the last paragraph.
"	XV	Presidency Small Cause Courts Act, 1882.	In section 1, <i>the figures</i> 1881.
"	XIX	Punjab University Act, 1882.	Section 22.
"	XXII	Dekkhan Agriculturists' Relief Act, 1882.	Sections 17 and 19.
1883	III	Repealing Act XXVII of 1854 (Názim of Bengal).	The whole.
"	V	Indian Merchant Shipping Act, 1883.	In section 2, sub-section (2), <i>the words</i> proceedings commenced <i>and the word</i> commenced.
"	VII	Repealing the Lower Burma Labour Law, 1876.	The whole.
"	VIII	Little Cocos and Preparis Islands Laws Act, 1883.	Section 3.
1*	*	*      *	*      *      *
"	XIII	Indus Valley State Railway Lands.	Section 1.
"	XIV	North-Western Provinces and Oudh Local Boards Act, 1883.	Sections 57 and 60.
"	XV	North-Western Provinces and Oudh Municipalities Act, 1883.	Section 5, <i>from</i> and shall <i>to the end</i> .
"	XIX	Land Improvement Loans Act, 1883.	Section 12, sub-section (2).
1884	I	Honorary Degrees .	Section 1.

The entry relating to the Central Provinces Tenancy Act, 1883 (IX of 1883), was repealed by the Central Provinces Tenancy Act, 1893 (XI of 1893).

THE FIRST SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year	No.	Subject or title.	Extent of repeal.
1884	II	Unregistered instruments of partition, Madras.	In section 2, provide <i>the words</i> within three years after the date on which this Act comes into force, or <i>and the words</i> if the transfer is made after this Act comes into force.
1*	*	* *	* * *
"	IV	Indian Explosives Act, 1884.	Section 2, sub-section (2).
"	V	Amending the Chitli Nagpur Encumbered Estates Act, 1876.	Section 8, clause (a). Section 10.
"	VI	Inland Steam-vessels Act, 1884.	In section 3, sub-section (2), <i>the words</i> proceedings commenced <i>and the word</i> commenced.
"	VII	Indian Steam-ships Act, 1884.	Section 2, sub-section (2).
"	VIII	Repealing Bengal Regulation XIX of 1810 in the North-Western Provinces.	The whole.
"	IX	Legal Practitioners Act, 1884.	Section 10, sub-section (2).
"	XIV	Validation of Settlement-officers' Decisions, Punjab.	The whole.
"	XX	Amending the Indian Salt Act, 1882.	The whole.
2*	*	* *	* * *
"	XVIII	Punjab Courts Act, 1884.	Section 1, sub-section (4). Sections 2, 68 and 69. The schedule.
"	XIX	Rangoon Water-works Act, 1884.	Section 1, sub-section (3).

<sup>1</sup> The entry relating to the Criminal Procedure Code Amendment Act, 1884 (III of 1884), was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898). *Infra*, p. 350.

<sup>2</sup> The entry relating to the Lower Burma Municipal Act, 1884 (XVIII of 1884), was repealed by the Burma Laws Act, 1896 (XIII of 1896). Printed, Burma Code, Ed. 1899.

THE FIRST SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1884	XXI	Straits Settlements Emigration.	The whole.
1885	II	Negotiable Instruments Act, 1885.	Section 7.  Section 8, clause (b), and the word and at the end of clause (a).
"	VII	Pāñch Māhāls Laws Act, 1885.	Section 4, from and in Part II to the end
"	IX	Tariff; Excise; Sea-customs.	In the title and preamble, the words and figures to repeal part of section 6 of the Indian Tariff Act, 1882, and.  Section 1.
"	XII	Indian Sea Passengers Act, 1885.	Section 2.
"	XVI	Central Provinces Civil Courts Act, 1885.	Section 1, sub-section (f).  Sections 24 and 25.
"	XVII	Central Provinces Government Wards Act, 1885.	Section 2.
"	XX	Postponing temporarily the operation of certain provisions of the Bengal Tenancy Act, 1885.	The whole.
1886	II	License-tax Amendment.	Section 1, sub-section (g).  The second schedule, Part III, clause (b).
"	IV	Amending the Indian Contract Act, 1872.	Section 2.
"	V	Mirzapur Stone Mahāl Act, 1886.	Section 1, sub-section (g).  Sections 2 and 19.
"	VI	Births, Deaths and Marriages Registration Act, 1886.	Section 1, sub-section (g).

(The First Schedule.—Enactments repealed.)

THE FIRST SCHEDULE—*contd.*Part I.—*Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No	Subject or title	Extent of repeal.
1886	X	Amending the Code of Criminal Procedure, 1882, etc.	Section 20. <sup>1</sup> Section 21, sub-section (2).
"	XIII	Indian Securities Act, 1886.	Section 1, sub-section (3).
"	XIV	North-Western Provinces Rent Act, 1886.	Section 6. In section 7, the words the word "other" is repealed; and in and the words of the same section.
"	XVIII	Amending Act XXXVI of 1858, (Lunatic Asylums).	Section 3, so far as it relates to section 17A.
"	XX	Upper Burma Laws Act, 1886.	In section 1, sub-section (2), the words within four months from the passing of the Act. Section 5. The first schedule. The second schedule, First Part, so far as it relates to Act V of 1881, section 153.
"	XXII	Oudh Rent Act, 1886.	Section 1, sub-section (4).
"	XXIII	Dekhan Agriculturists' Relief Act, 1886.	Section 10, sub-sections (1) and (2). Section 12, sub-section (2). Section 13.
"	XXIV	Extension of the Glanders and Farcy Act, 1870, to Bombay.	The whole.
1887	II	Sea-customs; Excise; Tariff.	Sections 7 and 9.
"	IV	Indian Museum Act, 1887.	Section 2.
"	VII	Suits Valuation Act, 1887.	Section 10.

<sup>1</sup> S. 20 affects the Bombay District Police Act, 1867 (Bom. Act VII of 1867).<sup>2</sup> The Upper Burma Laws Act, 1886 (XX of 1886), has now been entirely repealed by the Burma Laws Act, 1898 (XIII of 1898). Burma Code, Ed. 1899.

THE FIRST SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1887	VIII	Abolishing Military Courts of Requests.	The whole.
"	IX	Provincial Small Cause Courts Act, 1887.	Section 2, down to the word But. In section 17, sub-section (1), the words as amended by this Act. The first schedule.
"	XII	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 2, down to the word But.
"	XVI	Punjab Tenancy Act, 1887.	Sections 2 and 3. Section 4, clause (11), sub-clause (a). The schedule.
"	XVII	Punjab Land-revenue Act, 1887.	Section 1, sub-section (4). Section 3, clause (9), sub-clause (a).
1888	VI	Debtors Act, 1888	Section 9.
"	VII	Civil Procedure Code Amendment Act, 1888.	Sections 4, 25, 29 and 41. Section 49, sub-section (1). Section 50. Section 52, sub-section (1). Sections 56 and 57. In section 65, sub-section (3), the words "the Code of Civil Procedure." Section 66, sub-section (2).
"	VIII	Tolls	In section 5, the words the words "and the Governor of the Presidency of Bombay in Council" are hereby repealed, and.
"	IX	Repealing enactments relating to contagious diseases.	The whole.



*(The First Schedule.—Enactments repealed.)*THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year	No.	Subject or title.	Extent of repeal.
1888	X	Amending the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.	Section 4.
"	XIII	Punjab Courts Act, 1888	Section 3.
"	XVI	Repealing Act VII of 1867 and Madras Regulation XIV of 1832.	The whole.
1*	*	* *	* * *
1889	V	Coroner of Madras	Section 3, sub-section (2). Section 4, sub-section (1).
"	VI	Probate and Administration Act, 1889.	Section 9, sub-section (2). Section 18, sub-section (1). Section 21.
"	XI	Lower Burma Courts Act, 1889.	The first and second schedules, so far as they relate to Regulation VII of 1886.
"	XII	Amending the Indian Merchandise Marks Act, 1889.	The whole.
"	XIII	Cantonments Act, 1889.	In sections 3, 21 and 26, the <i>figures</i> 1881, <i>wherever they occur</i> .
"	XVI	Central Provinces Land-revenue Act, 1889.	Section 3. In section 26, the words and figures section 136 is hereby repealed, and. Section 26, so far as it relates to section 136W. Section 29, sub-section (2), <i>from</i> and the last <i>to the end</i> . Sections 30, 31 and 36.
2*	*	* *	* * *

\* The entry relating to Act XIX of 1888 was repealed by the Burma Laws Act, 1898 (XIII of 1898). Burma Code, Ed. 1899.

\* The entry relating to the Central Provinces Tenancy Act, 1889 (XVII of 1889), was repealed by the Central Provinces Tenancy Act, 1898 (XI of 1898).

*Repealing and Amending Act. [1891: Act XII.  
(The First Schedule.—Enactments repealed.)*

THE FIRST SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title	Extent of repeal
1889	XX	Amending Act XXXVI of 1858 (Lunatic Asylums).	Section 3.
1890	II	Amending Act XVII of 1864, etc.	Section 11, sub-section (2).
"	III	Amending the Inland Steam-vessels Act, 1884, and the Indian Steam-ships Act, 1884.	Section 3. Section 4, sub-section (1). Sections 5 and 16. Section 17, sub-section (1). Section 18.
"	V	Forest Act, 1890	Section 21.
"	X	Amending Act XXV of 1867 (Printing-presses and Books).	Sections 1, 2 and 7.
"	XVIII	Amending the Indian Emigration Act, 1883.	Section 6.
"	XIX	Amending the Indian Salt Act, 1882.	Section 5, and the preamble prefixed thereto.
"	XX	North-Western Provinces and Oudh Act, 1890.	Section 17. Section 21, sub-section (2) Section 35. Section 43, <i>from</i> and the word "Oudh" <i>to the end.</i> Sections 48, 50 and 56.
1891	II	Amending the Indian Christian Marriage Act, 1872.	Section 1, sub-section (1). Section 4, sub-section (2).
1*	*	* * *	* * *
"	VI	Amending certain Acts respecting Indian Merchant Shipping.	Section 12.

\* The entry relating to the Criminal Procedure Code (1892) Amendment Act, 1891, was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898). *Infra*, p. 330.

(The First Schedule — Enactments repealed.)

THE FIRST SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*concl'd.*

1	2	3	4
Year.	No.	Subject or title	Extent of repeal.
1891	VII	Amending Act X of 1841.	<p>In section 5, <i>the words</i> the words "or the East India Company" are hereby repealed, and.</p> <p>Section 6, sub-section (1).</p> <p>In section 8 <i>the words</i> the words "issued under the Company's seal and" are hereby repealed, and.</p>

## Part II.—Acts of the Lieutenant-Governor of Bengal in Council.

1	2	3	4
Year.	No.	Subject or title	Extent of repeal.
1866	I	Amending Bengal Regulation VI of 1819 (Ferries).	The whole Act, so far as it applies to Assam.
"	V	Hackney Carriages	The whole Act, so far as it applies to Assam.
1867	II	Gambling	The whole Act, so far as it applies to Assam.
1875	V	Bengal Survey Act, 1875.	The whole Act, so far as it applies to Assam.

## Part III.—Regulations of the Bengal Code.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1793	XIX	Title to Non-bādshāhi Lakshirāj Grants.	In section 4, <i>the word and figures</i> and XXI.
"	XXXVIII	Loans by Civil Servants.	The title, <i>from</i> and for re-enacting <i>to the end</i> . Section 1, <i>from</i> From a regard <i>to</i> remained in force.
1794	III	Revenue arrears	In the title, <i>the words</i> for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue; and <i>and the words</i> and for expediting the trial of causes relating to the public revenue or the rents of individuals.

(The First Schedule.—Enactments repealed.)

THE FIRST SCHEDULE—*contd.**Part III.—Regulations of the Bengal Code—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1795	I	Benares Permanent Settlement.	The title, <i>from</i> and for extending to 1793.
"	XV	Referring cases to Raja of Benares.	The title; <i>from</i> for extending to Section X; and.
"	XXVII	Benares Permanent Settlement.	The title, <i>from</i> and for continuing to functions.
1799	I	Trade on Sylhet Frontier	So much as has not been repealed.
"	V	Wills and Intestacies .	In the title, <i>the words</i> and City.
1800	VIII	Registers of estates .	The title, <i>from</i> preparing to prescribed.
1801	I	Division of joint estates.	The title, <i>from</i> to explain and amend part to such sales, <i>from</i> contained in Regulation XXV, 1793, to Regulation XXVI, 1795, and <i>from</i> and to fix to the end.  In section 8, <i>the words and figures by clause First</i> of Section XXIX, Regulation VII, 1799, or any other Regulation.  In section 14, <i>the words and figures from</i> The rules contained in to affected by this Regulation, <i>the words</i> It is further hereby declared that, and <i>the words and figures from</i> This declaration to portions thereof.
1804	X	State-offences . .	In section 2, <i>the words</i> declared to be.  In section 3, <i>the words</i> It is hereby further declared that.
1805	XII	Settlement, Cuttack .	In section 30, <i>the words and figures from</i> The rules to this Regulation, <i>the words</i> Provided however that, <i>the words and figures</i> under Section IV, Regulation XXIV, 1793, and <i>the word</i> likewise.
1806	XI	Assistance to marching troops and to travellers.	The title, <i>from</i> and for extending to the end.  Section 1, <i>from</i> and whereas it is further necessary to Section XII, Regulation I, 1804  In section 8, <i>the words and figures</i> (under the rules prescribed by Regulation V, 1804).

*(The First Schedule.—Enactments repealed.)*THE FIRST SCHEDULE—*contd.**Part III.—Regulations of the Bengal Code—contd.*

1	2	3	4
Year.	No.	Subject	Extent of repeal.
1812	XVIII	Leases; Apportionment of Assessment on partition.	In section 3, clause <i>Second</i> , the words and figures and Section VII, Regulation XXVII, 1795.
"	XXII	Territories bordering on Bandelkhand.	The title, <i>from</i> and for annexing to Calenger. Section 1.  In section 2, the words Ditto of Rajah Kissere Sing, the Rajah of Jeytpore, the words Ditto of Chobey Salligram, jaghire-dar of Cushbah Poorwah, etc., and the words Ditto of Purnam Bahadur, jaghire-dar of Khuddee, etc.  Sections 3 and 4.
1816	V	Kánúngos . . .	The whole Regulation, so far as it applies to Assam.
1817	XII	Patwaris . . .	In section 32, the words reporting, however, the amount for the information of the Governor General in Council and the words when confirmed by Government.  The whole Regulation, so far as it applies to Assam.
"	XX	Police . . .	The title, <i>from</i> for modifying to the end.  In the heading prefixed to section 30, the words badges and the words and insane persons.  Forms Nos. 1, 4, 5, 7, 9 to 12 and 15 to 21 in the Appendix.
1819	I	Kánúngos and Patwáris	The title, <i>from</i> for replacing to Gorakhpur.  Section 4, clause <i>Fifth</i> , <i>from</i> anything to the end.  The whole Regulation, so far as it applies to Assam.
"	II	Resumption of revenue-free lands.	In section 4, the words and figures and Regulations XII and XIII of 1795, Regulations XXXI and XXXVI of 1803, Regulations VIII, and the words and figures <i>from</i> nor to alter to the end.

(The First Schedule.—Enactments repealed.)

THE FIRST SCHEDULE—*contd.*Part III.—Regulations of the Bengal Code—*contd.*

1	2	3	4
Year.	No	Subject.	Extent of repeal.
1810	II — <i>contd</i>		In section 12, <i>the figures</i> XXVI. Section 29.
"	VIII	Patni Taluqs . .	The title, <i>from</i> and to explain <i>to the end</i> . The preamble, <i>from</i> It has been likewise deemed advisable <i>to defaulters</i> .
1821	IV	Powers of Collectors and Magistrates.	The title, <i>from</i> for authorising a Collector &c. Also.
1822	VII	Settlement, Cuttack, etc.	The title, <i>from</i> for continuing <i>to five years</i> .
"	XI	Non-liability of Government for errors of Court, etc.	The title, <i>from</i> for modifying <i>to arrears of revenue</i> .
1823	VI	Indigo-contracts . .	The preamble, <i>from</i> Under the rules <i>to draw</i> ing up the agreement. In section 3, clause <i>Fourth</i> , <i>the words</i> or other officer. In section 3, clause <i>Fifth</i> , <i>the words</i> or other tribunal trying the case. In section 3, clauses <i>Sixth</i> , <i>Seventh</i> and <i>Ninth</i> , <i>the words</i> or other officer trying the case. In section 3, clause <i>Ninth</i> , <i>the words</i> or other person trying the case.
1825	IX	Defaulting malguzars .	The whole Regulation, so far as it applies to Assam. The preamble, <i>from</i> and whereas the rules <i>to</i> sanctioned by Government. In section 2, clause <i>First</i> , <i>the words and figures</i> and Regulations II and XXII, 1795. In section 3, <i>the words</i> and Benares. Section 8, <i>from</i> Section XI, Regulation XXXI, 1803, <i>to</i> Conquered Provinces. Section 9.

(The First Schedule.—Enactments repealed.)

THE FIRST SCHEDULE—*concl'd.*Part III.—*Regulations of the Bengal Code—concl'd.*

1	2	3	4
Year	No.	Subject	Extent of repeal.
1825	XIII	Settlement of resumed Lakhiraj land.	In section 2, <i>the figures and words</i> IV, 1808. Regulations II and.  In section 4, <i>the words and figures</i> or the second clause of Section VIII, Regulation XII, 1795, in the province of Benares.  In section 5, <i>the figures and word</i> XLII, 1795, and XXXVI, 1803.
1830	V	Indigo-contracts	The title <i>from</i> for amending to contracts.  The preamble, <i>down to</i> indigo crops; and.  The whole Regulation, so far as it applies to Assam.
1831	VI	Sadr Adalat	So much as has not been repealed.
"	XI	Police-powers of Tahsil- dars.	The preamble, <i>from</i> Whereas by Regulation IV, 1821, <i>to</i> Magistrates and <i>and from</i> and whereas it is expedient <i>to</i> police-officers.

(The Second Schedule.—Enactments amended.)

## THE SECOND SCHEDULE.

## ENACTMENTS AMENDED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

*Part I.—Acts of the Governor General in Council.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1835	XIX	Assistant to Agent for Sardars, Dekkhan.	<i>Add the following section:—</i>  2. The provisions of the Code of Civil Procedure in appeals to the Governor of Bombay in Council. from decrees passed in appeal shall apply, so far as may be, to appeals to the Governor in Council under this Act.
1839	VII	Tahsildárs, Madras	In section 6, <i>for</i> the three last preceding sections <i>read</i> sections 3 and 5.
1846	I	Pleaders . . .	In section 7, <i>for</i> the sections of Regulations <i>read</i> the section of the Regulation.
1850	XIX	Binding Apprentices	In section 11, <i>for</i> section VIII <i>read</i> section 9.  In section 20, <i>for</i> and, <i>where</i> the word <i>occurs</i> <i>before</i> administrators, <i>read</i> or.
1851	XII	Land-revenue, Madras Town.	In the preamble and section 1, <i>for</i> within the limits of the Town of Madras as defined in Section XII, Regulation II of 1802 of the Madras Code, <i>read</i> within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.
1 *	*	* . . *	* . . *
1856	XX	Chaukidárs . . .	In section 38 (as amended by Act XXII of 1871, section 3), <i>for</i> Commissioners of Circuit <i>read</i> Commissioner.
1857	XXV	Forfeiture of property .	In section 2, <i>for</i> by this Act, or Act XI of 1857, or Act XIV of 1857, or Act XVI of 1857, <i>read</i> by the Indian Penal Code, section 121 or section 122, or the Indian Articles of War, Article 24.

<sup>1</sup> Repealed by the Prisons Act, 1894 (IX of 1894), s. 2 and Schedule, printed, *infra*, p. 159.



(The Second Schedule.—Enactments amended.)

THE SECOND SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year.	No	Subject or title.	Amendment
1858	XXXVII	Nawáb of the Carnatic .	<p><i>For the list of names in Schedule A, read the following:—</i></p> <ol style="list-style-type: none"> <li>1. Her Highness Nawáb Khair-un-Nissa Begam.</li> <li>2. Nawáb Ahmad-un-Nissa Begam.</li> <li>3. Nawáb Qadria Begam.</li> <li>4. Rahim-un-Nissa Begam.</li> <li>5. Ammak-ul-Ali Aliyat-un-Nissa Begam.</li> </ol>
1859	I	Merchant Seamen .	<p>In section 62, <i>for</i> Act XX of 1841 (<i>for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons</i>) <i>read</i> the Succession Certificate Act, 1880.</p> <p>In section 115, <i>for</i> Sections XXI and XXII of this Act <i>read</i> Chapter IV of the Indian Merchant Shipping Act, 1883, and section 22 of this Act.</p>
1860	XXVIII	Boundary-marks, Madras.	In section 4, <i>for the words and figures from in the same manner to the end, read</i> in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
„	XLV	Indian Penal Code .	In section 307, Illustration (c), <i>after</i> <i>insert</i> the first paragraph of.
1863	XX	Religious Endowments .	In section 3, <i>for</i> Section 1 <i>read</i> the preamble to this Act.
1864	III	Foreigners . . .	In section 24, <i>for the words and figures from according to the end, read</i> be recovered in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
1865	X	Indian Succession Act, 1865,	In section 242, <i>after</i> <i>is insert</i> or are.
1867	III	Gambling . . .	In the preamble, <i>after</i> Fort William <i>insert</i> and.

(The Second Schedule.—Enactments amended.)

THE SECOND SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year.	No	Subject or title.	Amendment.
1867	III — <i>contd.</i>		In section 2, <i>for</i> sections 13, 17 and 18 <i>read</i> sections 13 and 17.
"	XXIII	Murderous Outrages, Punjab.	In section 10, <i>for</i> the Punjab Chief Court Act, 1866, <i>read</i> in any other enactment for the time being in force.
"	XXV	Printing Presses and Books.	In section 3, <i>before</i> of the publisher <i>insert</i> the name.
1868	V	Commissioner in Sindh .	In the schedule, <i>for</i> Act VII of 1854 (for the apprehension within the territories under the Government of the East India Company of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them) <i>read</i> The Foreign Jurisdiction and Extradition Act, 1879; <i>and for</i> Act VII of 1865 (to give effect to rules for the management and preservation of Government forests) <i>read</i> The Indian Forests Act, 1878.
1869	V	Indian Articles of War .	* * * 1  In the heading to Article 170, <i>for</i> " committed " <i>read</i> " of which any person is accused."
"	XX	Indian Volunteers Act, 1869.	In section 22, <i>for the words from</i> if for offences committed outside <i>to the end</i> , <i>read</i> in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
1870	VII	Court-fees Act, 1870 .	<i>For</i> section 34 <i>read the following</i> :—  34. (1) The Local Government may from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

<sup>1</sup> The entry relating to Part I, cl. (c), of the Indian Articles of War (Act V of 1869) is virtually repealed by s. 2 of the Indian Articles of War Amendment Act, 1891 (XII of 1891), as the whole of that clause was repealed by the section referred to. For Act XII of 1891, *see infra*, p. 181.

(The Second Schedule.—Enactments amended.)

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year	No	Subject or title.	Amendment.
1870	VII — <i>contd.</i>		(2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.  (3) Any person appointed who sells stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.  In Schedule I, Article 2, for Act No. XIV of 1859 (to provide for the limitation of suits), section 15, read the Specific Relief Act, 1877, section 9.  In Schedule II, Article 4, for Bombay Act No. V of 1861 (to give Mamlatdars' Courts jurisdiction in certain cases to maintain existing possession or to restore possession to any party dispossessed otherwise than by course of law) read the Mamlatdars' Courts Act, 1876.
"	XXIV	Oudh Taluqdars' Relief Act.	In section 12, for the words section three, in the second place in which they occur, read section 4.
1 *	*	* *	* * * *
"	XXVII	Amending the Indian Penal Code.	In section 13, for the said sections 124A and 225A read sections 121A, 225A and 225B.
1871	V	Prisoners Act, 1871	In section 13, for section eight of Act No. XXIII of 1861 (to amend Act VIII of 1859) read section 350 of the Code of Civil Procedure, and for the provisions as to deposit of fees and as to release on security contained in the same section, read the provisions as to release on security contained in section 349 of the same Code.
1872	IV	Punjab Laws Act, 1872	In section 12 (as amended by Act XII of 1878, section 2), for the Punjab Tenancy Act 1868, section 34, read the Punjab Tenancy Act, 1887, section 53.

\* Rep. by the Prisons Act, 1894 (IX of 1894), printed, *infra*, p. 159.

(The Second Schedule.—Enactments amended.)

THE SECOND SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year	No.	Subject or title.	Amendment.
1872	IV — <i>contd.</i>		In section 50 (as amended by Act XV of 1875, section 3), <i>for</i> sections forty-three to forty-nine <i>read</i> sections 43 to 48.
"	V	Jurisdiction over Sindh.	In section 2 (added by Act XX of 1872), <i>for</i> the Administrator General's Act, 1867, <i>read</i> the Administrator General's Act, 1874.
"	IX	Indian Contract Act, 1872.	In section 25, clause (1), <i>for</i> assurances <i>read</i> documents.  In section 43, first paragraph, <i>for</i> one <i>read</i> one or more.  In section 63, Illustration (e), <i>for</i> compensation <i>read</i> composition.
"	XV	Indian Christian Marriage Act, 1872.	In section 4, <i>after</i> is <i>insert</i> or are.  In Schedule III, <i>for</i> (See section 28) <i>read</i> (See sections 28 and 31).
1873	VIII	Northern India Canal and Drainage Act, 1873.	In section 75, clause (3), <i>after</i> whom <i>insert</i> and.
1874	II	Administrator General's Act, 1874.	In section 15, <i>after</i> hereafter <i>insert</i> to.
"	IX	European Vagrancy Act, 1874.	In section 26, <i>for</i> the words <i>from</i> if <i>for</i> offences committed outside <i>to</i> time being <i>read</i> in the manner provided by the law <i>for</i> the time being in force <i>for</i> the recovery of fines imposed by Criminal Courts.
"	XIV	Scheduled Districts Act, 1874.	<i>After</i> section 5 <i>insert</i> the following section:—  5A. In declaring an enactment in force in a Modification of enactments scheduled district in their application to scheduled or part thereof under section 3 of this Act, or in extending an enactment to a scheduled district or part thereof under section 5 of this Act, the Local Government, with the previous sanction of the Governor General in Council, may declare the operation of the enactment to be subject to such restrictions and modifications as that Government thinks fit.

(The Second Schedule.—Enactments amended.)

THE SECOND SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year	No.	Subject or title	Amendment.
1874	XIV — <i>contd.</i>		In the first schedule, Part I, No. II, <i>for</i> (7) The Konda Muttā of Belgām <i>read</i> (7) The Konda Muttā of Merangi.
			In the first schedule, Part III, No. I, <i>for</i> Divisions <i>read</i> Districts.
"	XV	Laws Local Extent Act, 1874.	In the second schedule, Part (a), in the entry relating to Madras Regulation II of 1803, <i>for</i> (parts of ss. 1 & 7) <i>read</i> (section 7, clause second).
			In the sixth schedule, Part I, No. II, <i>for</i> (7) The Konda Muttā of Belgām <i>read</i> (7) The Konda Muttā of Merangi.
			In the sixth schedule, Part III, No. I, <i>for</i> Divisions <i>read</i> Districts.
1876	X	Bombay Revenue Jurisdiction Act, 1876.	In section 1, clause (b), <i>for</i> Act XV of 1871 <i>read</i> Act XXI of 1881.
"	XIII	Indian Merchant Seamen's Act, 1876.	In section 8, last paragraph, <i>for</i> to imprisonment <i>read</i> with imprisonment.
"	XVII	Oudh Land-revenue Act, 1876.	In section 105, <i>for</i> field <i>read</i> fields.
"	XVIII	Oudh Laws Act, 1876.	In section 30, clause (f), <i>for</i> Oudh Revenue Act <i>read</i> Oudh Land-revenue Act, 1876.
1877	III	Indian Registration Act, 1877.	To section 1 <i>add</i> the following—  The Local Government may, with the previous sanction of the Governor General in Council, cancel any order excluding districts or tracts of country from the operation of this Act.  In section 83, <i>for the words from</i> if for offences committed outside <i>to the end read</i> in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.

(The Second Schedule.—Enactments amended.)

THE SECOND SCHEDULE—*contd.*Part I.—*Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment
1877	III — <i>contd.</i>		<p>After the third paragraph of section 89 insert the following:—</p> <p>Every Revenue-officer granting a certificate of sale to the purchaser of immoveable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in Book No. I.</p> <p>In section 90, clause (c), <i>for or filed read are filed.</i></p>
1878	I	Opium Act, 1878	In section 24, <i>for Deputy Collector read Deputy Commissioner.</i>
"	VII	Indian Forest Act, 1878	In section 41, clause (c), <i>for dépôt read dépôts.</i>
"	VIII	Sea-customs Act, 1878	<p>In section 2, <i>for the first schedule read Part I of the schedule.</i></p> <p>In the schedule appended to section 167—</p> <p>in the first column of the entry numbered 3, <i>for No. 2 read No. 4, and for landing or shipment read shipment and landing; and</i></p> <p>in the second column of the entry numbered 59, <i>for 141 read 142.</i></p>
"	XVII	Northern India Ferries Act, 1878.	<p>In section 17, clause (c), <i>for first read in the first instance, and for the words and figures from and then to the end of the clause read and shall then, at the discretion of the Local Government,—</i></p> <p>(i) be placed at the disposal of any District Board or District Boards established under the Punjab District Boards Act, 1883, or</p> <p>(ii) be applied to any of the purposes specified in the second clause of section 5 of the Central Provinces Additional Rates Act, 1878,</p> <p>as the case may be; and.</p>

(The Second Schedule.—Enactments amended.)

THE SECOND SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year	No.	Subject or title.	Amendment.
1 *	*	*      *	*      *      *
1879	XVI	Transport of Salt Act, 1879.	In section 3, clause (a), <i>for</i> section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873, or by a <i>rawana</i> granted under Madras Regulation I of 1805, section eleven, clause third, <i>read</i> Chapter V of Madras Salt Act, 1889, or Chapter V of the Bombay Salt Act, 1890, or the corresponding law for the time being in force in the territories administered by the Governor of Fort St. George in Council or the Governor of Bombay in Council, as the case may be.
"	XXI	Foreign Jurisdiction and Extradition Act, 1879.	In section 6, <i>for the first thirty-three words read</i> . The Governor General in Council may appoint any European British subject, either by name or by virtue of his office, to be a Justice of the Peace in or for any such country or place.
1880	VII	Indian Merchant Shipping Act, 1880.	In section 68, <i>for purposes read</i> purpose.
1881	V	Probate and Administration Act, 1881.	In section 59, <i>after is insert or are</i> .  In section 83, <i>for proceeding read</i> proceedings.
"	XII	North-Western Provinces Rent Act, 1881.	In section 94, <i>for of village-expenses read</i> for village-expenses, <i>and for arrears or share read</i> arrears, share, expenses or dues.
"	XVIII	Central Provinces Land-revenue Act, 1881.	In section 33, <i>for the first five grades read</i> the last five classes; <i>for the Central Provinces Courts Act, 1865, read</i> the Central Provinces Civil Courts Act, 1885; <i>and for sections twelve, nineteen and twenty read</i> section 7.

<sup>1</sup>The entry relating to the Indian Stamp Act, 1879 (I of 1879), was repealed by the Indian Stamp Act, 1899 (II of 1899).

THE SECOND SCHEDULE—*contd.*

*Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year	No	Subject or title.	Amendment.
1881	XVIII — <i>contd.</i>		In section 34, <i>for</i> the Central Provinces Courts Act, 1865, sections twelve, nineteen and twenty, <i>read</i> the Central Provinces Civil Courts Act, 1885, section 16 and section 17, sub-section (1), and the powers of a Court of a Commissioner described in the same Act, section 15, sub-section (1).  In section 35, <i>for</i> the first four grades <i>read</i> the last four classes.
1*	*	* *	* *
*	*	* *	* *
1882	V	Indian Easements Act, 1882.	In section 14, <i>for</i> right <i>read</i> a right.
"	VI	Indian Companies Act, 1882.	In section 66, <i>after</i> the word cheque, <i>where it first occurs</i> , insert <i>or</i> .  In section 88, <i>after</i> dates insert <i>of</i> .  In section 127, <i>for</i> prove <i>read</i> proof.  In section 144, clause (f), <i>after</i> the word bill, <i>in the last place in which it occurs</i> , insert <i>hundl</i> .
3*	*	* *	* *
"	XIV	Code of Civil Procedure.	In section 6, clause (d), <i>for</i> Maulmain, Akyah or Bassein <i>read</i> or Maulmain.  In section 266, clause (i), <i>for</i> Native <i>read</i> Indian.  In section 484, <i>for</i> the sum <i>read</i> the same.  In section 568, clause (b), <i>for</i> <i>for</i> <i>read</i> <i>or</i> .
1888	V	Indian Merchant Shipping Act, 1883.	In section 6, sub-section (3), <i>for</i> to simple imprisonment <i>read</i> with simple imprisonment.

<sup>1</sup> The entry relating to the Lower Burma Forest Act, 1881, was repealed by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

<sup>2</sup> The entry relating to the Excise Act, 1881 (XXII of 1881), was repealed by the Excise Act, 1898 (XII of 1898), s. 2 and Schedule.

<sup>3</sup> The entry relating to the Code of Criminal Procedure, 1882 (Act X of 1882), was repealed by the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.



(The Second Schedule.—Enactments amended.)

THE SECOND SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year	No.	Subject or title	Amendment.
1883	XIV	North-Western Provinces and Oudh Local Boards Act, 1883.	In sections 36 and 37, <i>for</i> Government Civil Pension and Leave Codes, <i>wherever those words occur, read</i> Civil Service Regulations.
"	XV	North-Western Provinces and Oudh Municipalities Act, 1883.	In sections 37 and 38, <i>for</i> Government Civil Pension and Leave Codes <i>read</i> Civil Service Regulations.
"	XX	Punjab District Boards Act, 1883.	In sections 28 and 29, <i>for</i> Government Civil Pension and Leave Codes, <i>wherever those words occur, read</i> Civil Service Regulations.
1884	VI	Inland Steam-vessels Act, 1884.	In section 56 <i>for</i> to simple imprisonment <i>read</i> with simple imprisonment.
"	"	"	"
1886	XII	Petroleum Act, 1886.	In section 1, sub-section (3), <i>for</i> The provisions of this Act <i>read</i> Sections 1 to 4 of this Act and the provisions.
"	XXIII	Dekkhan Agriculturists' Relief Act, 1886.	In section 10, sub-section (3), <i>for</i> the same section <i>read</i> section 58.
1887	XVI	Punjab Tenancy Act, 1887.	In section 45, sub-section (2), <i>before</i> year <i>insert</i> agricultural.
1888	III	Police Act, 1888.	In section 2, sub-section (1), <i>for</i> the Bombay District Police Act, 1867, <i>read</i> or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council.
"	VII	Civil Procedure Code Amendment Act, 1888.	In section 49, sub-section (2), <i>for</i> the same section <i>read</i> section 562. In section 52, sub-section (2), <i>for</i> the same section <i>read</i> section 566.
1889	V	Coroner of Madras	In section 4, sub-section (2), <i>for</i> that Code <i>read</i> the Code of Criminal Procedure, 1882.
"	XI	Lower Burma Courts Act, 1889.	<i>For</i> section 87 <i>read</i> the following:— 87. For the purposes of section 47 of the Guardians and Wards Act, 1890, the Special Court constituted under Chapter V of this Act shall be deemed to be the High Court in respect of appeals from orders made by the Judge of the Town of Maulmain.

<sup>1</sup> The entry relating to the Lower Burma Municipal Act, 1884 (XVII of 1884), was repealed by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899

(The Second Schedule.—Enactments amended.)

THE SECOND SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council—*concl'd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1889	XIII	Cantonments Act, 1889	In section 19, <i>for</i> shall not be imposed under section 17 of this Act in the cantonment, <i>read</i> shall not be leviable in the cantonment in pursuance of a notification under section 17 of this Act.
"	XVIII	Central Provinces Municipal Act, 1889.	In section 29, clause (f), <i>for</i> used <i>read</i> use.
1890	III	Amending the Inland Steam-vessels Act, 1884, and the Indian Steam-ships Act, 1884.	In section 4, sub-section (2), <i>for</i> the same section <i>read</i> section 11 of the said Act. In section 17, sub-section (2), <i>for</i> the same section <i>read</i> section 13 of the said Act.
1891	VII	Amending Act X of 1841.	In section 6, sub-section (2), <i>for</i> the same section <i>read</i> section 17 of the said Act.

## Part II.—Regulations of the Bengal Code.

1	2	3	4
Year.	No.	Subject.	Amendment.
1793	XI	Inheritance	In section 3, <i>for</i> that section <i>read</i> section 2, and <i>for</i> Regulation XXV, 1793, <i>read</i> the Estates' Partition Act, 1876.
1817	XII	Patwaris	In section 31, <i>for</i> Boards are <i>read</i> Board is. <i>For</i> section 35 <i>read</i> the following :— 35. (1) Any person aggrieved by a decision Appeal to Comr or order of a Collector under missioner from section 20 of this Regulation decision or may appeal within six months order under may appeal within six months section 20, from the date thereof to the Commissioner of the Division. (2) The Commissioner may reverse or alter any such decision or order in appeal.

*(The Second Schedule.—Enactments amended.)*THE SECOND SCHEDULE—*concl'd.**Part II.—Regulations of the Bengal Code—cont'd.*

1	2	3	4
Year.	No.	Subject.	Amendment.
1817	XX	Police	In the heading prefixed to section 29, for Commercial, Salt and Opium Departments <i>read</i> Opium Department, and for those Departments <i>read</i> that Department.  In section 29, clause <i>Twelfth</i> , for Section XXXI, Regulation XIII, 1816, <i>read</i> Act XIII of 1857, section 21.
1818	III	State Prisoners	In section 9, <i>after</i> situated <i>insert</i> and.
1819	II	Resumption of Revenue-free lands.	In section 6, clause <i>First</i> , for the words <i>from</i> in the Persian and Bengal languages to Conquered Provinces <i>read</i> in the vernacular of the district.  In section 12, <i>after</i> belong <i>insert</i> he.  In section 26, clause <i>Second</i> , for a appeal <i>read</i> an appeal.
1822	III	Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal.	(a) In section 5, clause <i>First</i> , for the Governor General in Council, by an order in Council, and for the Governor General in Council similarly, (b) in section 5, clause <i>First</i> , first proviso, clause <i>Second</i> and clause <i>Third</i> , for Government, and (c) in section 5, clauses <i>Fourth</i> and <i>Fifth</i> , for the Governor General in Council— <i>read</i> the Lieutenant-Governor.  In section 5, clause <i>First</i> , first proviso, <i>before</i> Collector <i>insert</i> Commissioner or.  In section 5, clause <i>First</i> , third proviso, for formally confirmed <i>read</i> made or confirmed in accordance with rules sanctioned.
1823	VI	Indigo-contracts	In section 6, for a investigation <i>read</i> an investigation.
1825	XIII	Settlement of resumed lākhirāj land.	In section 4, for the Regulations <i>read</i> the Regulation.  In section 5, for Regulations <i>read</i> Regulation.

ACT No. XIII of 1891.<sup>1</sup>

[21st March, 1891.]

An Act to amend the Inland Steam-vessels Act, 1884.<sup>2</sup>

WHEREAS it is expedient to amend the Inland Steam-vessels Act, 1884;<sup>3</sup> IV of 1884  
It is hereby enacted as follows:—

Substitution  
of new Chap-  
ter for Chap-  
ter III, Act  
VI, 1884.

1. For Chapter III of the said Act the following shall be substituted, namely:—

## “CHAPTER III.

“MASTERS (INCLUDING SERANGS), AND ENGINEERS (INCLUDING ENGINE-DRIVERS), OF INLAND STEAM-VESSELS.

Appointment  
of examiners.

“22. The Local Government may, from time to time, appoint<sup>3</sup> persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or serangs, or as engineers or engine-drivers, of inland steam-vessels.

Grant of  
masters' and  
serangs' certi-  
ficates of  
competency.

“23 (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class master, second-class master or serang, as the case may be, of an inland steam-vessel.

“(2) Every certificate granted under this section shall be in the prescribed form.

Grant of  
engineers'  
and engine-  
driver's certi-  
ficates of  
competency.

“24. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, of an inland steam-vessel.

“(2) Every certificate granted under this section shall be in the prescribed form.

Power for  
Local Govern-  
ment to  
require re-  
examination

“25. Before granting a certificate under either of the two last foregoing sections, the Local Government may, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, require

<sup>1</sup> Short title, “The Inland Steam-vessels Act (1884) Amendment Act, 1891.” See the Indian Short Titles Act, 1897 (XIV of 1897) printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 15; for Report of the Select Committee, see *ibid*, p. 113; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 6, 13 and 112.

As being part of the Inland Steam-vessels Act, 1884 (VI of 1884), it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

<sup>2</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 713.

<sup>3</sup> As to appointments made in exercise of the power conferred by this provision, see footnote on p. 721, General Acts, Vol. IV, Ed. 1898.

## (Sec. 1.)

a re-examination of the applicant or a further inquiry into his testimonials and character. or further inquiry.

"25A. (1) The Local Government may in its discretion grant without examination to any person who has served as a master, or as an engineer, of an inland steam-vessel before the first day of April, 1890, a certificate of service to the effect that he may act as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, of an inland steam-vessel. (Grant of certificates of service)

"(2) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination.

"26. Every certificate of competency or service granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner. Certificates to be made in duplicate.

"27. Whenever a master or serang, or an engineer or engine-driver, proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled shall be granted to him, and shall have all the effect of the original. Copy of certificate to be granted in certain cases.

"28. (1) An inland steam-vessel having engines of eighty nominal horsepower or upwards shall not proceed on any voyage unless she has—

Nature of certificates necessary in case of different steam-vessels.

(a) as her master a person possessing a first-class master's certificate granted under this Act or a master's certificate granted under Act I of 1859<sup>1</sup> (*for the amendment of the law relating to Merchant Seamen*) or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869,<sup>2</sup> and

(b) as her engineer a person possessing an engineer's certificate granted under this Act or the Indian Steam-ships Act, 1884,<sup>3</sup> or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.<sup>2</sup>

"(2) An inland steam-vessel having engines of thirty nominal horse-power or upwards but of less than eighty nominal horse-power shall not proceed on any voyage unless she has—

(a) as her master a person possessing a second-class master's certificate

<sup>1</sup> The Indian Merchant Shipping Act, 1859, printed, General Acts, Vol. I, Ed. 1898, p. 167.

<sup>2</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), by which these Acts have been repealed.

<sup>3</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 740.

## (Sec. 1.)

granted under this Act or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1), and

- (b) as her engineer a person possessing a first-class engine-driver's certificate granted under this Act or an engine-driver's certificate granted under the Indian Steam-ships Act, 1884,<sup>1</sup> or a certificate of the higher grade of the nature referred to in clause (b) of sub-section (1): VII of 1884.

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a second-class master's certificate and a first class engine-driver's certificate granted under this Act, or, in substitution for either of such certificates, as the case may be, a master's certificate or an engineer's certificate of the higher grade of the nature referred to in sub-section (1).

“(3) An inland steam-vessel having engines of less than thirty nominal horse-power shall not proceed on any voyage unless she has—

- (a) as her master a person possessing a serang's certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1) or sub-section (2), and  
(b) as her engineer a person possessing a second-class engine-driver's certificate granted under this Act or an engine-driver's certificate granted under the Indian Steam-ships Act, 1884,<sup>1</sup> or a certificate of the higher grade of the nature referred to in clause (b) of sub-section (1) or sub-section (2): VII of 1884.

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a serang's certificate and a second-class engine-driver's certificate granted under this Act, or, in substitution for either of such certificates, as the case may be, a master's certificate or an engineer's or engine-driver's certificate of the higher grade of the nature referred to in sub-section (1) or sub-section (2).

“(4) Notwithstanding anything in sub-section (1), sub-section (2) or sub-section (3), the Local Government may, by general or special order, direct that a person possessing a master's certificate granted under Act I of 1859<sup>2</sup> (*for the amendment of the law relating to Merchant Seamen*) or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869,<sup>3</sup> or pos- 17 & 18 Vict., c. 104, etc. 32 & 33 Vict., c. 11.

<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 740.

<sup>2</sup> The Indian Merchant Shipping Act, 1859, printed, General Acts, Vol. I, Ed. 1898, p. 167.

<sup>3</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), by which these Acts have been repealed.

*(Sec. 1.)*

sessing an engineer's certificate granted under the Indian Steam-ships Act, 1884,<sup>1</sup> or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869,<sup>2</sup> shall not act as master or engineer, as the case may be, of an inland steam-vessel unless he also possesses, in the case of a master, such a master's or serang's certificate granted under this Act as qualifies him under this section to act as master of the vessel, or, in the case of an engineer, such an engineer's or engine-driver's certificate granted under this Act as qualifies him under this section to act as engineer of the vessel:

" Provided that, for the purposes of this sub-section, the Local Government may, in its discretion, grant without examination a master's or serang's, or an engineer's or engine-driver's, certificate of competency under this Act, and that a certificate of competency so granted without examination shall have the same effect as a certificate of competency granted under this Act after examination.<sup>3</sup>

" 29. (1) The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules<sup>4</sup>—

- (a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters or serangs, or as engineers or engine-drivers, under this Act;
- (b) prescribe the qualifications to be respectively required of persons desirous of obtaining first-class masters' certificates, second-class masters' certificates, serangs' certificates, engineers' certificates, first-class engine-drivers' certificates, and second-class engine-drivers' certificates respectively;
- (c) fix the fees to be paid by all applicants for examination; and
- (d) prescribe the form in which certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

" (2) The Local Government may also make rules with respect to the grant of certificates of service under this Act, and may by such rules—

- (a) fix the fees to be paid for such certificates, and
- (b) prescribe the form in which such certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded."

Power for Local Government to make rules as to grant of certificates of competency and certificates of service.

<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1893, p. 740.

<sup>2</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), by which these Acts have been repealed.

<sup>3</sup> For notifications issued under the powers conferred under the proviso to s. 28 and under s. 29, see footnotes on p. 724, General Acts, Vol. IV, Ed. 1893.

Substitution  
of new clause  
for clause (c),  
section 43,  
Act VI,  
1884.

2. For clause (c) of section 43 of the said Act the following shall be substituted, namely:—

“(c) if, in the case of a second-class master or serang, or of an engine-driver, the master or serang, or the engine-driver, is or has become, in the opinion of the Local Government, unfit to act as a second-class master or serang, or as an engine-driver, as the case may be;”.

Repeal of  
sections 9, 10  
and 11, Act  
III, 1890.

3. Sections 9, 10 and 11 of Act III of 1890<sup>1</sup> (*an Act to amend Acts VI and VII of 1884*) are hereby repealed.

ACT No. XVI OF 1891.<sup>2</sup>

[14th May, 1891.]

## An Act to declare certain Courts in British India to be Colonial Courts of Admiralty.

WHEREAS it is provided by the Colonial Courts of Admiralty Act, 1890,<sup>3</sup> 53 & 54 Vic c. 27. that the Legislature of a British possession may by any colonial law declare any Court of unlimited civil jurisdiction in that possession to be a Colonial Court of Admiralty;

And whereas it is expedient, in pursuance of that provision, to declare certain Courts in British India to be Colonial Courts of Admiralty;

It is hereby enacted as follows:—

Title and  
commence-  
ment.

1. (1) This Act may be called the Colonial Courts of Admiralty (India) Act, 1891; and

(2) It shall come into effect—

(a) if Her Majesty's pleasure thereon has been signified, by notification in the Gazette of India, on or before the first day of July, 1891, then on that day,<sup>4</sup> or

(b) if Her Majesty's pleasure thereon has not been so signified on or before that day, then on the day on which Her Majesty's pleasure shall be signified by such a notification as aforesaid.

Appointment  
of Colonial  
Courts of  
Admiralty.

2. The following Courts of unlimited civil jurisdiction are hereby declared to be Colonial Courts of Admiralty, namely:—

(1) the High Court of Judicature at Fort William in Bengal,

(2) the High Court of Judicature at Madras,

(3) the High Court of Judicature at Bombay,

<sup>1</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 363.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 140; for Proceedings in Council, see *ibid*, 1891, Pt. VI, p. 116.

<sup>3</sup> See Gazette of India, 1890, Pt. I, p. 654.

<sup>4</sup> For notification publishing Her Majesty's Assent to this Act, see Gazette of India, 1891, Pt. I, p. 371.



(Secs. 3-5. *The Schedule.—Enactment repealed.*)

- (4) the Court of the Recorder of Rangoon,  
 (5) the Court of the Resident at Aden, and  
 (6) the District Court of Karachi.

3. The expressions "Court having Admiralty jurisdiction" and "Admiralty Court" and the expression "Admiralty or Vice-Admiralty cause," and other expressions referring to Admiralty or Vice-Admiralty Courts or causes, shall, wherever any such expression occurs in any enactment of the Governor General in Council, or of a Governor in Council or Lieutenant-Governor in Council, be deemed to include a Colonial Court of Admiralty and a Colonial Court of Admiralty cause, and to refer to a Colonial Court of Admiralty or a Colonial Court of Admiralty cause, respectively.

Construction of Indian Acts referring to Admiralty and Vice-Admiralty Courts.

4. Court-fees in suits instituted in the Colonial Court of Admiralty at Rangoon, Aden or Karachi shall, unless the jurisdiction of the Court is to be exercised in any matter relating to the slave-trade, be leviable in accordance with the provisions of Chapter III of the Court-fees Act, 1870.<sup>1</sup>

Court-fees in suits in the Colonial Courts of Admiralty at Rangoon, Aden and Karachi.

VII of 1870.

5. The enactments mentioned in the schedule are hereby repealed to the extent specified in the third column thereof.

Repeal.

## THE SCHEDULE.

(See section 5.)

### ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
XI of 1889 . . .	Lower Burma Courts Act, 1889.	Section 49, and the words " <i>Admiralty Jurisdiction</i> " prefixed thereto.
II of 1864 . . .	Justice at Aden . . .	In the preamble the words and figures from and inclusive of "and whereas Her Majesty" down to and inclusive of "Statute 12 and 13 Vict., c. 84."

<sup>1</sup> Printed, General Acts, Vol. II, Ed. 1893, p. 124.

ACT No. XVII OF 1891.<sup>1</sup>

[20th August, 1891.]

## An Act to amend the Indian Merchant Shipping Act, 1880.

WHEREAS it is expedient to amend and add to the provisions of the Indian Merchant Shipping Act, 1880<sup>2</sup> (hereinafter called the said Act), respecting VII of 18  
unseaworthy and unsafe ships: It is hereby enacted as follows:—

Title and  
commence-  
ment.  
Addition to  
section 3,  
Act VII,  
1880.

1. (1) This Act may be called the Deck and Load Lines Act, 1891: and

(2) It shall come into force on the first day of September, 1891.

2. To section 3 of the said Act the following shall be added, namely:—

“The Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the local official Gazette, exclude from, or bring again within, the operation of this Chapter or any part thereof, subject to such modifications thereof (if any) as may be specified in the notification, any Native craft not square-rigged.”

Addition to  
section 4,  
Act VII,  
1880.

3. To section 4 of the said Act the following shall be added, namely:—

“‘Amidships’ means the middle of the length of the load water-line as measured from the fore side of the stem to the aft side of the stern-post.”

Substitution  
of new sec-  
tions for  
sections 33 to  
43, Act VII,  
1880.

4. For sections 33 to 43, both inclusive, of the said Act the following sections shall be substituted, namely:—

## “Deck and Load-lines.

Marking of  
deck-lines.

“33. (1) Every British Indian ship shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water.

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

(3) The line shall be white or yellow on a dark ground, or black on a light ground.

“34. (1) The master of every British ship not being a coasting-vessel within the meaning of the Sea Customs Act, 1878,<sup>3</sup> shall, before his ship is entered outwards from any port in British India upon any voyage, or, if that VIII of 18;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 216; for Report of the Select Committee, see *ibid.*, 1891, Pt. V, p. 145; and for Proceedings in Council, see *ibid.*, 1890, Pt. VI, p. 145, and *ibid.*, 1891, Pt. VI, pp. 2 and 181.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 304.

<sup>3</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 168.

Marking of  
load-lines  
in case of  
vessels which

is not practicable, as soon after as may be, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre. are not coast-  
ing-vessels.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876,<sup>1</sup> as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.

(3) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

"35. (1) Every person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and, if default be made in delivering this statement, the Customs-collector may refuse to enter the ship outwards. Statement in  
application  
to Customs  
officer for  
entry out-  
wards of  
such vessel  
as aforesaid.

(2) A copy of this statement shall be entered in the agreement with the crew before it is signed by any member of the crew, and no shipping master shall proceed with the engagement of a crew for any such ship until this entry has been made.

(3) The master shall enter a copy of this statement in the official log-book (if any).

VIII of 1878. "36. (1) The master of every British ship which is a coasting-vessel within the meaning of the Sea Customs Act, 1878,<sup>2</sup> shall, before proceeding to sea from any port, mark outside upon each of her sides amidships or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre. Marking of  
load-lines in  
case of coast-  
ing-vessels.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876,<sup>1</sup> as may be approved by the Local Government, and shall indicate the

39 & 40 Vict.,  
c. 80.

<sup>1</sup> Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 1018, see now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), s. 438.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 168.

## (Sec. 4.)

maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship:—

(3) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration.

Annual statement as to position of load-line on coasting-vessel.

“37. (1) The master of every such ship shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Collector, or other principal officer of Customs of such port as the Local Government may, from time to time, appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

(2) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

Modification of certain foregoing provisions, Position of line and approval of, and certificate as to, position hereof.

(3) If default be made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be liable to a fine which may extend to one thousand rupees.

“38. The foregoing provisions of this Chapter with respect to deck and load-lines are subject to the provisions of the two next following sections.

“39. (1) The position of the discs mentioned in sections 34 and 36 respectively shall be fixed in accordance with the tables framed by the Load-line Committee appointed in the United Kingdom before the passing of the Merchant Shipping Act, 1890,<sup>1</sup> subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of this Chapter or of the Merchant Shipping Act, 1876,<sup>2</sup> and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as may, from time to time, with the previous approval of the Governor General in Council, be sanctioned by the Local Government. 53 Vict., c. 39 & 40 Vict. c. 80.

(2) The Local Government shall from time to time appoint—

(a) a surveyor employed by Lloyd's or by any other society, corporation or association for the survey or registry of shipping approved by the Board of Trade under section 2 of the Merchant Shipping Act, 1890,<sup>1</sup> and specially authorised in this behalf by Lloyd's or by such society, corporation or association, as the case may be, or 53 Vict., c. 1

<sup>1</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

<sup>2</sup> Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 1018. See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), s. 438.

## (Sec. 4.)

(b) an officer specially selected by the Local Government for the purpose,<sup>1</sup> to approve and certify on its behalf from time to time the position of any such disc as aforesaid, and any alteration thereof,

and may, with the previous sanction of the Governor General in Council from time to time fix the fees <sup>1</sup> to be taken in respect of any such approval or certificate.

(3) The Local Government may suspend or remove from office any surveyor or officer so appointed.

"40. (1) The Local Government, with the previous sanction of the Govern- Rules.  
or General in Council, may from time to time make rules <sup>1</sup>—

(a) determining the lines or marks to be used in connection with any such disc as aforesaid, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Chapter are to have effect as if any such line were drawn through the centre of the disc ;

(b) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise ;

(c) as to the mode of application for, and form of, certificates under this Chapter ; and

(d) as to the entry of such certificates, and any other prescribed particulars concerning the draught of water and free-board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) Rules under clause (a) of sub-section (1) may, with respect to any class or classes of ships,<sup>2</sup>—

(i) declare what shall be deemed to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules, and

(ii) modify the tables referred to in sub-section (1) of section 39.

(3) All rules intended to be made under this section shall previously be published in draft in such manner as may be prescribed by the Local Government, and shall not be formally promulgated for ninety days at the least after such publication, and all such rules shall, while in force, have effect as if enacted by this Act.

"41. Any master of a ship who neglects to cause his ship to be marked as Penalty for

<sup>1</sup> For notification and rules issued and framed under these clauses and section 40, *see* footnote on p. 315, General Acts, Vol. III, Ed. 1898.

<sup>2</sup> For rules under this sub-section, *see* footnote on page 316, Vol. III, General Acts, Ed. 1898.

(Sec. 5.)

neglecting to  
mark, or sub-  
merging,  
load-line

by this Chapter required or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged,

and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the lines or marks prescribed by or under this Chapter, except in the event of the particulars thereby denoted being lawfully altered, or for the purpose of escaping capture by an enemy,

shall be liable in respect of each such offence to a fine which may extend to one thousand rupees.

Penalty on  
master for  
having mis-  
leading  
marks.

"42. The master of any ship on which any of the marks or lines prescribed by or under this Chapter is inaccurately placed so as to be likely to mislead, who does not forthwith cause such inaccuracy to be corrected, shall be liable to a fine which may extend to one thousand rupees.

Saving of  
ships marked  
in the United  
Kingdom.

"43. The provisions of this Chapter as to load-lines shall not apply to ships coming from ports in the United Kingdom and having such lines fixed, marked and certified in accordance with the provisions of the law for the time being there in force, or to ships registered in a British possession and having such lines fixed, marked and certified in accordance with the provisions of an enactment passed by the Legislature of that possession, with respect to which enactment such a declaration as is mentioned in section 3 of the Merchant Shipping Act, 1890,<sup>1</sup> has been made by an Order of Her Majesty in Council 53 Vict., c and is for the time being in force."

5. To the said Act the following section shall be added, namely:—

Addition to  
Act VII,  
1880.  
Application  
of provisions  
respecting  
overloading  
to foreign  
ships.

"85. The provisions of this Act for the prevention of the overloading and improper loading of British ships shall apply to foreign ships also when in ports of British India unless such foreign ships, if in ports of the United Kingdom, would be entitled to the benefit of an Order of Her Majesty in Council under section 4 of the Merchant Shipping Act, 1890."<sup>1</sup>

53 Vict., c

<sup>1</sup> See now the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), ss 444 and 445.

ACT No. XVIII OF 1891.<sup>1</sup>

[1st October, 1891.]

An Act to amend the Law of Evidence with respect to  
Bankers' Books.

WHEREAS it is expedient to amend the Law of Evidence with respect to Bankers' Books; It is hereby enacted as follows:—

1. (1) This Act may be called the Bankers' Books Evidence Act, 1891.

Title, extent  
and com-  
mencement.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) "company" means a company registered under any of the enactments relating to companies from time to time in force in British India, or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent:

(2) "bank" and "banker" mean—

(a) any company carrying on the business of bankers,

(b) any partnership or individual to whose books the provisions of this Act shall have been extended as hereinafter provided,

<sup>2</sup>(c) any post office savings bank or money order office:

(3) "bankers' books" include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a bank:

(4) "legal proceeding" means any proceeding or inquiry in which evidence is or may be given, and includes an arbitration:

(5) "the Court" means the person or persons before whom a legal proceeding is held or taken:

(6) "Judge" means a Judge of a High Court:

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 24; for Report of the Select Committee, see *ibid.*, p. 189; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 15, 25, 117, 135 and 140.

The Act has been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), printed, General Acts, Vol. II, Ed. 1898, p. 467, to British Baluchistan, see Gazette of India, 1896, Pt. II, p. 1004. It was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

It has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal, Code Vol. I, Ed. 1889, see Calcutta Gazette, 1892, Pt. I, p. 448.

<sup>2</sup> Cl. (c) was added by s. 2 of the Bankers' Books Evidence Act, 1893 (I of 1893), printed, *infra*, p. 92.

(Secs. 3-6.)

(7) "trial" means any hearing before the Court at which evidence is taken : and

(8) "certified copy" means a copy of any entry in the books of a bank together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business, and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title.

Power to  
extend provi-  
sions of Act.

3. The Local Government may, from time to time, by notification in the official Gazette, extend the provisions of this Act to the books of any partnership or individual carrying on the business of bankers within the territories under its administration, and keeping a set of not less than three ordinary account books, namely, a cash-book, a day-book or journal, and a ledger, and may in like manner rescind any such notification.

Mode of  
proof of  
entries in  
bankers'  
books.

4. Subject to the provisions of this Act, a certified copy of any entry in a banker's book shall in all legal proceedings be received as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

Case in  
which officer  
of bank not  
compellable  
to produce  
books.

5. No officer of a bank shall in any legal proceeding to which the bank is not a party be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

Inspection of  
books by  
order of  
Court or  
Judge.

6. (1) On the application of any party to a legal proceeding the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceeding, or may order the bank to prepare and produce, within a time to be specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such further certificate shall be dated and subscribed in manner hereinbefore directed in reference to certified copies.

(2) An order under this or the preceding section may be made either with or without summoning the bank, and shall be served on the bank three clear days (exclusive of bank holidays) before the same is to be obeyed, unless the Court or Judge shall otherwise direct.



(3) The bank may at any time before the time limited for obedience to any such order as aforesaid either offer to produce their books at the trial or give notice of their intention to show cause against such order, and thereupon the same shall not be enforced without further order.

7. (1) The costs of any application to the Court or a Judge under or for the purposes of this Act and the costs of anything done or to be done under an order of the Court or a Judge made under or for the purposes of this Act shall be in the discretion of the Court or Judge, who may further order such costs or any part thereof to be paid to any party by the bank if they have been incurred in consequence of any fault or improper delay on the part of the bank. Costs.

(2) Any order made under this section for the payment of costs to or by a bank may be enforced as if the bank were a party to the proceeding.

(3) Any order under this section awarding costs may, on application to any Court of Civil Judicature designated in the order, be executed by such Court as if the order were a decree for money passed by itself:

Provided that nothing in this sub-section shall be construed to derogate from any power which the Court or Judge making the order may possess for the enforcement of its or his directions with respect to the payment of costs.

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ACT No. II of 1892.<sup>1</sup>

[29th January, 1892.]

An Act to validate certain marriages solemnized under Part VI  
of the Indian Christian Marriage Act, 1872.<sup>2</sup>

WHEREAS provision is made in Part VI of the Indian Christian Marriage Act, 1872,<sup>2</sup> for the solemnization of marriages between persons of whom both are Native Christians, but not of marriages between persons of whom one only is a Native Christian;

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<sup>1</sup> Short title, "The Marriage Validation Act, 1892." See the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1891, Pt. V, p. 142; for Report of the Select Committee, see *ibid*, 1892, Pt. V, p. 5; for Proceedings in Council, see *ibid*, 1891, Pt. VI, p. 117, and *ibid*, 1892, Pt. VI, p. 11.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see First Schedule and s. 4, printed, Burma Code, Ed. 1899.

The Act has also been declared in force in the Santhál Parganas, by notification under s. 3 of the Santhál Parganas Settlement Regulation (III of 1872) as amended by the Santhál Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Ed. 1889, see Gazette of India, 1895, Pt. I, p. 310.

<sup>2</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 373.

And whereas persons licensed under section 9 of the said Act have in divers parts of British India, through ignorance of the law, permitted marriages to be solemnized in their presence under the said Part between persons of whom one is a Native Christian and the other is not a Native Christian ;

And whereas it is expedient that such marriages, having been solemnized in good faith, should be validated ;

It is hereby enacted as follows :—

1. This Act shall come into force at once.

2. In this Act the expression “ Native Christian ” has the same meaning as in the Indian Christian Marriage Act, 1872.<sup>1</sup>

XV of 1872.

3. All marriages which have already been solemnized under Part VI of the Indian Christian Marriage Act, 1872,<sup>1</sup> between persons of whom one only was a Native Christian, shall be as good and valid in law as if such marriages had been solemnized between persons of whom both were Native Christians :

XV of 1872.

Provided that nothing in this section shall apply to any marriage which has been judicially declared to be null and void, or to any case where either of the parties has, since the solemnization of such marriage and prior to the commencement of this Act, contracted a valid marriage.

4. Certificates of marriages which are declared by the last foregoing section to be good and valid in law, and register-books, and certified copies of true and duly authenticated extracts therefrom, deposited in compliance with the law for the time being in force, in so far as the register-books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been solemnized between persons of whom both were Native Christians.

5. References in this Act to the Indian Christian Marriage Act, 1872,<sup>1</sup> shall, so far as may be requisite, be construed as applying also to the corresponding portions of the Indian Marriage Act, 1865.<sup>2</sup>

XV of 1872

V of 1865.

6. If any person licensed under section 9 of the said Act to grant certificates of marriage between Native Christians shall at any time after the commencement of this Act solemnize or affect to solemnize any marriage under Part VI of the said Act or grant any such certificate as therein mentioned, knowing that one of the parties to such marriage or affected marriage was at the date of such solemnization not a Christian, he shall be liable to have his license cancelled, and in addition thereto he shall be deemed to have been guilty of an offence prohibited by section 73 of the said Act, and shall be punishable accordingly.

<sup>1</sup> Printed, General Acts, Vol. II, Ed. 1893, p. 373.

<sup>2</sup> Repealed (except as to Straits Settlements) by Act XV of 1872.

commence-  
ment.  
definition.

validation of  
regular  
marriages.

validation of  
records of  
regular  
marriages.

application  
Act to  
marriages  
under Act  
of 1865.  
penalty for  
solemnizing  
regular  
marriages.

(Secs. 1-2.)

ACT No. VI OF 1892.<sup>1</sup>

[29th July, 1892.]

An Act to amend the Indian Limitation Act, 1877,<sup>2</sup> and the Code of Civil Procedure.<sup>3</sup>

XV of 1877. WHEREAS it is expedient to amend the Indian Limitation Act, 1877,<sup>2</sup> and  
XIV of 1882 the Code of Civil Procedure;<sup>3</sup> It is hereby enacted as follows:—

XV of 1877 1. After section 5 of the Indian Limitation Act, 1877,<sup>2</sup> the following section shall be added, namely:—

Addition of new section after section 5, Act XV of 1877.

“5A. Whenever it is shown to the satisfaction of the Court that an appeal or an application for a review of judgment was presented after the expiration of the period of limitation prescribed for such appeal or application owing to the appellant or applicant having been misled by any order, or practice, or judgment of the High Court of the Presidency, Province, or District, such appeal or application, if otherwise in accordance with law, shall for all purposes be deemed by all Courts to have been presented within the period of limitation prescribed therefor.”

Limitation for certain appeals or applications for review of judgment.

XIV of 1882. 2. To Chapter XXII of the Code of Civil Procedure <sup>3</sup> the following section shall be added, namely:—

Addition of new section to Chapter XXII of Code of Civil Procedure.

“375A. Nothing in this Chapter shall apply to any application or other proceeding in any suit subsequent to the decree.

Applications for execution of decrees not affected.

“*Explanation.*—An application to the Appellate Court pending an appeal is not an application subsequent to the decree appealed from within the meaning of this section.”

<sup>1</sup> Short title, “The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.” See the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1892, Pt. V, p. 43; for Proceedings in Council, see *ibid*, 1892, Pt. VI, pp. 31, 52 and 58.

This Act is in force in Upper Burma (except the Shan States) in so far as it amends Acts XV of 1877 and XIV of 1882, both of which Acts have been declared in force there by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899; the Act has also been declared in force in the Santhál Parganas, by notification under s. 3 of the Santhál Parganas Settlement Regulation (III of 1872) as amended by the Santhál Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, see Gazette of India, 1895, Pt. I, p. 310.

So far as it amends that Act, it is in force in the subdivision of Angul, as being part of the original Act, XV of 1877, printed, General Acts, Vol. III, Ed. 1898, p. 75.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 75.

<sup>3</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

3. After section 582 of the said Code the following section shall be added, namely :—

“582A. If a memorandum of appeal or application for a review of judgment has been presented within the proper period of limitation, but is written upon paper insufficiently stamped and the insufficiency of the stamp was caused by a mistake on the part of the appellant or applicant as to the amount of the requisite stamp, the memorandum of appeal or application shall have the same effect and be as valid as if it had been properly stamped : Provided that such appeal or application shall be rejected unless the appellant or applicant supplies the requisite stamp within a reasonable time after the discovery of the mistake, to be fixed by the Court.”

4. To section 647 of the said Code the following shall be added, namely :—

“*Explanation.*—This section does not apply to applications for the execution of decrees, which are proceedings in suits.”

5. The provisions of this Act shall apply to every appeal and review of judgment heard after the passing hereof, notwithstanding that the judgment appealed from or under review may have been passed, or the petition of appeal or application for review presented, before the passing of this Act.

#### ACT No. VIII of 1892.<sup>1</sup>

[22nd October, 1892.]

An Act to remove doubts as to the levy and collection of tolls upon the Lansdowne Bridge over the Indus at Sukkur in the Presidency of Bombay, and for other purposes.

WHEREAS by an Act passed by the Governor of Bombay in Council, intituled “an Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay,” the Act of the Governor General in Council<sup>2</sup> “for enabling Government to levy tolls on public roads and bridges” was repealed as far as it affected the Presidency of Bombay ;

Bom. Act III  
of 1875.

VIII of 1851.

And whereas the bridge on the line of the North-Western Railway over the Indus at Sukkur in the said Presidency of Bombay, commonly known as “The Lansdowne Bridge,” was made and is repaired at the expense of the Government of India ;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1892, Pt. V, p. 67 ; for Proceedings in Council, see *ibid.*, 1892, Pt. VI, pp. 70 and 75.

<sup>2</sup> Printed, Bombay Code, Vol. II, Ed. 1896, p. 215.

<sup>3</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 79.

(Secs. 1-4.)

And whereas, in consequence of such repeal as aforesaid, doubts have arisen whether or not there is any subsisting authority competent to impose and levy tolls for the use of the said bridge, and it is expedient to remove such doubts ;

It is enacted as follows :—

1. (1) This Act may be called the Lansdowne Bridge Act, 1892.

Title, extent  
and com-  
mencement.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

VIII of 1891.

2. Notwithstanding the repeal of the lastly hereinbefore mentioned Act, the Governor General in Council may cause such rates of toll, not exceeding the rates mentioned in the schedule annexed to that Act, as he may think fit to be levied in respect of the said Lansdowne Bridge, and may place the collection of such tolls under the management of such persons as may appear to him proper : and all the provisions of the said last mentioned Act shall apply to such tolls and the collection and recovery thereof in the same manner as if such provisions were herein re-enacted verbatim. Levy of tolls.

3. All tolls heretofore levied or collected upon the said Lansdowne Bridge under the authority of the Governor General in Council or of the Governor of Bombay in Council shall be deemed to have been duly levied and collected under the authority of the said Act as if the same had not been repealed. Validation of past levy of tolls.

4. Where any public road or bridge has or shall have been made and repaired at the expense of the Government of India and no other adequate provision shall have been made for the levy and collection of tolls thereon, the Governor General in Council may, by notification in the Gazette of India, apply this Act to such road or bridge, and thereupon all the provisions of this Act shall apply to such road or bridge as if the same had been herein named in addition to the said Lansdowne Bridge. Application of Act to public roads and bridges.

ACT NO. X OF 1892.<sup>1</sup>

[25th October, 1892.]

An Act to provide for the levy of a rate on private estates under the management of the Government to meet the cost of supervision and management.

WHEREAS it is expedient to provide for the levy of a rate on private estates under the management of the Government to cover the cost of all Government establishments in so far as they are employed in the supervision and management of such estates, other than establishments specially entertained for any particular estate or group of estates, and to meet all contingent expenditure incurred by the Government in connection with such supervision and management; It is hereby enacted as follows:—

1. (1) This Act may be called the Government Management of Private Estates Act, 1892.

(2) It extends to the whole of British India, inclusive of <sup>2</sup> \* \* \* British Baluchistan; and

(3) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) “Immoveable property” includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth but not standing timber, growing crops or grass;

(2) “Gross income” includes all receipts of every kind in produce or cash, except money borrowed, recoveries of principal and the proceeds of sale of immoveable property or of moveable property properly classed as capital; and

(3) “Private estates under Government management” include—

(a) estates under the Court of Wards;

(b) encumbered estates under Government management;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1892, Pt. V, p. 14; for Report of the Select Committee, see *ibid*, 1892, Pt. V, p. 69; for Proceedings in Council, see *ibid*, 1892, Pt. VI, p. 78.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule and s. 4, printed, Burma Code, Ed. 1899.

<sup>2</sup> The words “Upper Burma and” were repealed by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule.

(Secs. 3-6.)

XIV of 1882.

- (c) estates attached for default of payment of Government revenue ;
- (d) minors' estates placed under the guardianship of a revenue-officer of the Government by a Civil Court ;
- (e) estates managed by a Collector in pursuance of any order made under the Code of Civil Procedure<sup>1</sup> ; and
- (f) all other estates made over to or taken under the management of a revenue-officer of the Government as such under any law for the time being in force or in virtue of any agreement.

3. It shall be lawful for the Local Government<sup>2</sup>—

Power to  
levy rate.

(I) to levy on all private estates under Government management a rate, not exceeding five per cent. on the gross income, calculated, as nearly as may be possible, to cover—

(a) the cost of all Government establishments in so far as they may be employed in the supervision or management of such estates other than establishments specially entertained for the supervision or management of any particular estate or group of estates, and

(b) all contingent expenditure incurred in consequence of such supervision or management ;

(2) from time to time to vary such rate ; and

(3) to reduce or remit such rate in any special case or cases as may be equitable :

Provided that, in deciding the amount of the rate to be levied under this Act on any particular estate or group of estates, the Local Government shall consider the expenditure incurred on special establishments for such estate or estates.

4. In cases where an officer of the Government is employed to give legal advice or to audit accounts on behalf of any estate, the Local Government, if it considers the services rendered to be of a special nature, may, in its discretion, direct a special charge to be made against that estate on account of such services, irrespective of the rate leviable under the last foregoing section.

Power to  
levy special  
charges.

5. Nothing in this Act shall apply to the cost of establishments specially entertained or to expenditure of any description specially incurred in respect of any particular estate or estates.

Saving as to  
special ex-  
penditure.

6. All rates for general supervision or management levied by any Local Validation

<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

<sup>2</sup> For instance of notification issued under the powers conferred by this section fixing a rate to be levied on any estate, see Central Provinces List of Local Rules and Orders, Ed. 1896, p. 58.

of levy of  
past rates.

Government before the commencement of this Act shall be deemed to have been levied under this Act.

Power to  
make rules.

7. The Local Government may make any rules<sup>1</sup> and issue any orders which may be necessary for carrying this Act into effect, and which are consistent therewith.

Exemption  
from juris-  
diction of  
Courts.

8. Where any Government establishment is employed in such supervision as aforesaid, the Local Government shall be the sole judge of the cost attributable to such employment, and its decision thereon shall not be questioned in any Court of Law or otherwise.

Repeal.

9. Section 17 of the Court of Wards Act, 1879<sup>2</sup> (passed by the Lieutenant Governor of Bengal in Council), and so much of Act III of 1881<sup>3</sup> (also passed by the Lieutenant Governor of Bengal in Council) as relates to section 17 of the said Court of Wards Act, 1879, are hereby repealed. Ben. IX of 1879.

#### ACT No. I of 1893.<sup>4</sup>

[20th January, 1893.]

### An Act to extend the provisions of the Bankers' Books Evidence Act, 1891, to the Books of Post Office Savings Banks and Money Order Offices.

WHEREAS it is expedient to extend the provisions of the Bankers' Books Evidence Act, 1891,<sup>5</sup> to the books of the savings banks and money order offices of the Post Office; It is hereby enacted as follows:— XVIII of 1891.

1. (1) This Act may be called the Bankers' Books Evidence Act, 1893; and
- (2) It shall come into force at once.

2. After clause (b) of sub-section (2) of section 2 of the said Bankers' Books Evidence Act, 1891,<sup>6</sup> the following clause shall be added, namely:— XVIII of 1891.

[*Vide supra*, p. 83.]

<sup>1</sup> For instance of rules made under the powers conferred by this section, see North-Western Provinces and Oudh Gazette, 1893, Pt. I, p. 533.

<sup>2</sup> Printed, Bengal Code, Vol. II, Ed. 1890, p. 430.

<sup>3</sup> Printed, Bengal Code, Vol. II, Ed. 1890, p. 604.

<sup>4</sup> For Statement of Objects and Reasons, see Gazette of India, 1893, Pt. V, p. 15; for Proceedings in Council, see *ibid.*, Pt. VI, pp. 12 and 27.

The Act has been extended to the Santhāl Parganas, see Gazette of India, 1895, Pt. I, p. 541.

<sup>5</sup> Printed, *supra*, p. 83.

hort title  
and com-  
mencement,  
addition to  
definition of  
"bank" and  
"banker" in  
section 2,  
sub-section  
(b), of Act  
XVIII of  
1891.



ACT No. IV of 1893.<sup>1</sup>

[9th March, 1893.]

## An Act to amend the Law relating to Partition.

WHEREAS it is expedient to amend the law relating to partition ; It is hereby enacted as follows :—

1. (1) This Act may be called the Partition Act, 1893.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

(4) But nothing herein contained shall be deemed to affect any local law providing for the partition of immoveable property paying revenue to Government.

Title, extent,  
commence-  
ment and  
saving.

2. Whenever in any suit for partition in which, if instituted prior to the commencement of this Act, a decree for partition might have been made, it appears to the Court that, by reason of the nature of the property to which the suit relates, or of the number of the shareholders therein, or of any other special circumstance, a division of the property cannot reasonably or conveniently be made, and that a sale of the property and distribution of the proceeds would be more beneficial for all the shareholders, the Court may, if it thinks fit, on the request of any of such shareholders interested individually or collectively to the extent of one moiety or upwards, direct a sale of the property and a distribution of the proceeds.

Power to  
Court to  
order sale  
instead of  
division in  
partition  
suits.

3. (1) If, in any case in which the Court is requested under the last foregoing section to direct a sale, any other shareholder applies for leave to buy at a valuation the share or shares of the party or parties asking for a sale, the Court shall order a valuation of the share or shares in such manner as it may think fit and offer to sell the same to such shareholder at the price so ascertained, and may give all necessary and proper directions in that behalf.

Procedure  
when sharer  
undertakes to  
buy.

(2) If two or more shareholders severally apply for leave to buy as provided in sub-section (1), the Court shall order a sale of the share or shares to the shareholder who offers to pay the highest price above the valuation made by the Court.

(3) If no such shareholder is willing to buy such share or shares at the

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1892, Pt. V, p. 46; for Report of the Select Committee, see *ibid.*, 1893, Pt. V, p. 51; for Proceedings in Council, see *ibid.*, 1893, Pt. VI, pp. 38 and 49.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule and s. 4, printed, Burma Code, Ed. 1899.

(Secs. 4-7.)

price so ascertained, the applicant or applicants shall be liable to pay all costs of or incident to the application or applications.

Partition  
suit by trans-  
feree of  
share in  
dwelling-  
house.

4. (1) Where a share of a dwelling-house belonging to an undivided family has been transferred to a person who is not a member of such family and such transferee sues for partition, the Court shall, if any member of the family being a shareholder shall undertake to buy the share of such transferee, make a valuation of such share in such manner as it thinks fit and direct the sale of such share to such shareholder, and may give all necessary and proper directions in that behalf.

(2) If in any case described in sub-section (1) two or more members of the family being such shareholders severally undertake to buy such share, the Court shall follow the procedure prescribed by sub-section (2) of the last foregoing section.

Represent-  
ation of  
parties under  
disability.

5. In any suit for partition a request for sale may be made or an undertaking, or application for leave, to buy may be given or made on behalf of any party under disability by any person authorized to act on behalf of such party in such suit, but the Court shall not be bound to comply with any such request, undertaking or application unless it is of opinion that the sale or purchase will be for the benefit of the party under such disability.

Reserved  
bidding and  
bidding by  
shareholders.

6. (1) Every sale under section 2 shall be subject to a reserved bidding, and the amount of such bidding shall be fixed by the Court in such manner as it may think fit and may be varied from time to time.

(2) On any such sale any of the shareholders shall be at liberty to bid at the sale on such terms as to non-payment of deposit or as to setting off or accounting for the purchase-money or any part thereof instead of paying the same as to the Court may seem reasonable.

(3) If two or more persons, of whom one is a shareholder in the property, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the shareholder.

Procedure to  
be followed  
in case of  
sales.

7. Save as hereinbefore provided, when any property is directed to be sold under this Act, the following procedure shall, as far as practicable, be adopted, namely:—

(a) if the property be sold under a decree or order of the High Court of Calcutta, Madras or Bombay in the exercise of its original jurisdiction, or of the Court of the Recorder of Rangoon, the procedure of such Court in its original civil jurisdiction for the sale of property by the Registrar;

(b) if the property be sold under a decree or order of any other Court, such

XIV of 1882.

procedure as the High Court may from time to time by rules prescribe in this behalf, and until such rules are made the procedure prescribed in the Code of Civil Procedure<sup>1</sup> in respect of sales in execution of decrees.

XIV of 1882.

8. Any order for sale made by the Court under section 2, 3 or 4 shall be deemed to be a decree within the meaning of section 2 of the Code of Civil Procedure.

Orders for sale to be deemed decrees.

9. In any suit for partition the Court may, if it shall think fit, make a decree for a partition of part of the property to which the suit relates and a sale of the remainder under this Act.

Saving of power to order partly partition and partly sale.

10. This Act shall apply to suits instituted before the commencement thereof, in which no scheme for the partition of the property has been finally approved by the Court

Application of Act to pending suits.

ACT No. V of 1893.<sup>2</sup>

[9th March, 1893.]

An Act to legalise in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in or with respect to territory beyond the limits of British India jurisdiction which the Governor General in Council has in such territory.

WHEREAS a capital sentence is occasionally passed by a British Court exercising in or with respect to territory beyond the limits of British India jurisdiction which the Governor General in Council has in such territory;

And whereas there may be in such territory no secure place for the confinement of a prisoner under sentence of death or no suitable appliances for his execution in a decent and humane manner;

It is hereby enacted as follows:—

1. When a British Court in the exercise of such jurisdiction as is referred to in the first paragraph of the preamble to this Act—

(a) has sentenced any person to death, and,

Execution in British India of certain capital sentences not

<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

<sup>2</sup> Short title, "The Foreign Jurisdiction (Capital Sentences) Act, 1893." See the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1892, Pt. V, p. 63; for Report of the Select Committee, see *ibid*, 1893, Pt. V, p. 55; for Proceedings in Council, see *ibid*, 1893, Pt. VI, pp. 42 and 58.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burmese Laws Act, 1898 (XIII of 1898), see the First Schedule and s. 4, printed, Burma Code, Ed. 1899.

For notification authorising such British Courts as are mentioned in this Act to send their warrants to jails in British India which may be notified by the Governor General in Council, see Western India Volume of Macpherson's Lists of British Enactments in force in Native States, Ed. 1895, p. 385, and for notification appointing certain jails in British India to which certain such Courts may send their warrants for the execution of capital sentences, see Bombay Government Gazette, 1895 Pt. I, p. 777.

ordinarily  
executable  
there.

(b) being of opinion that such sentence should for any such reason as is referred to in the second paragraph of the said preamble be executed in British India, has issued its warrant for the execution of such sentence to the superintendent or keeper of a jail in British India,

such superintendent or keeper shall, on receipt of such warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section 381<sup>1</sup> of the Code of Criminal Procedure, 1882.

X of 1882

Jails in  
which sen-  
tences are to  
be executed.

2. The jails of which the superintendents or keepers are to execute sentences under any such warrants shall be such as the Governor General in Council, or a Local Government authorised by him in this behalf, may by general or special order direct.<sup>2</sup>

Certain  
tribunals to  
be deemed  
British  
Courts under  
Act.

3. The tribunals mentioned in the proviso to section 19 of the Prisoners Act, 1871,<sup>3</sup> shall be deemed to be British Courts for the purposes of this Act :

V of 1871

Provided that every warrant issued under this Act by any such Court shall be signed by that one of the presiding Judges thereof who is the "officer of Government" mentioned in such proviso.

#### ACT No. VIII OF 1893.<sup>4</sup>

[26th June, 1893.]

### An Act to amend the Indian Coinage Act, 1870,<sup>5</sup> and the Indian Paper Currency Act, 1882.<sup>6</sup>

WHEREAS it is expedient to amend the Indian Coinage Act, 1870,<sup>5</sup> and the Indian Paper Currency Act, 1882<sup>6</sup> : It is hereby enacted as follows :—

XXIII of  
1870.

XX of 1882

1. (1) This Act may be called the Indian Coinage and Paper Currency Act, 1893 ; and

(2) It shall come into force at once.

2. The enactments specified in the schedule hereto shall be repealed or modified to the extent and in the manner mentioned in the third column thereof, but no such repeal or modification shall affect anything already done

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

<sup>2</sup> See the last para. of the second footnote on preceding page.

<sup>3</sup> Printed, General Acts, Ed. 1898, Vol. II, p. 195.

<sup>4</sup> For Statement of Objects and Reasons, see Gazette of India, 1893, Pt. V, p. 88 ; for Proceedings in Council, see *ibid*, 1893, Pt. VI, pp. 105 to 133.

This Act is in force in Upper Burma (except the Shan States) in so far as it amends Acts XXIII of 1870 and XX of 1882, both of which Acts have been declared in force there by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899,

<sup>5</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 172.

<sup>6</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 634.

Title and  
commence-  
ment.

Repeal of  
existing  
enactments.

or any right or obligation heretofore acquired or undergone, under the said enactments, or any of them.

### THE SCHEDULE.

Number, Year and Short Title.	Section.	Extent of repeal or modification.
Act XXIII of 1870 (the Indian Coinage Act, 1870).	19 to 26, both inclusive.	The whole to be repealed.
Act XX of 1882 (the Indian Paper Currency Act, 1882).	11	Clause (b), clause (d) and the proviso to be repealed.
	12	The word and letter "clause (b)" to be omitted.
	13	The words "to an extent to be specified in the order not exceeding one-fourth of the total amount of issues represented by coin and bullion as provided by this Act" to be omitted.
	14 and 15	The whole sections to be repealed.
	21	For the proviso to sub-section (1) the following shall be substituted :— "Provided that any coin or bullion so received and appropriated may be sold or exchanged for gold or silver coin of the Government of India of the like value, which shall be so appropriated and set apart instead of the coin or bullion sold or exchanged."
	28	Sub-section (2) to be repealed. Sub-section (1), clause (f), to be omitted. Sub-section (3) to be repealed.

## THE LAND ACQUISITION ACT, 1894.

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ACT No. I of 1894.<sup>1</sup>

[2nd February, 1894.]

## An Act to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows :—

## PART I.

## PRELIMINARY.

1. (1) This Act may be called the Land Acquisition Act, 1894.
- (2) It extends to the whole of British India; and
- (3) It shall come into force on the first day of March, 1894.
2. (1) The Land Acquisition Act, 1870, and section 74 of the Punjab Courts Act, 1884, are hereby repealed.
- (2) But all proceedings commenced, officers appointed or authorised, agreements published and rules made under the said Land Acquisition Act shall, as far as may be, be deemed to have been respectively commenced, appointed or authorised, published and made under this Act.

X of 1870.  
XVIII of  
1884.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1892, Pt. V, p. 32; for Report of the Select Committee, see *ibid*, 1894, Pt. V, p. 23; for Proceedings in Council, see *ibid*, 1894, pp. 19 and 24 to 42.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule and s. 4, printed, Burma Code, Ed. 1899.

It has been declared, by notification under s. 3 of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Districts of Hazaribagh, Lohardaga (now the Ranchi District, see the Calcutta Gazette, 1899, Pt. I, p. 44) and Munbhum, and in the Pargana of Dhalbhum and the Kolhan in the District of Singhbhum, see Gazette of India, 1894, Pt. I, p. 490; in the District of Palamanu, see Gazette of India, 1894, Pt. I, p. 639.



## (Part I.—Preliminary. Sec. 3.)

(3) Any enactment or document referring to the said Land Acquisition Act or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. In this Act, unless there is something repugnant in the subject or con- Definitions.  
text,—

- (a) the expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth :
- (b) the expression “person interested” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act ; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land :
- (c) the expression “Collector” means the Collector of a district, and includes a Deputy Commissioner and any officer specially appointed by the Local Government <sup>1</sup> to perform the functions of a Collector under this Act :
- (d) the expression “Court” means a principal Civil Court of original jurisdiction, unless the Local Government has appointed <sup>2</sup> (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act :
- (e) the expression “Company” means a Company registered under the Indian Companies Act, 1882,<sup>3</sup> or under the (English) Companies Acts, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent :
- (f) the expression “public purpose” includes the provision of village-sites in districts in which the Local Government shall have declared by notification <sup>4</sup> in the official Gazette that it is customary for the Government to make such provision : and
- (g) the following persons shall be deemed persons “entitled to act” as and to the extent hereinafter provided (that is to say)—

VI of 1882.

<sup>1</sup> For instance of such appointment, *see* Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. cxlv.

<sup>2</sup> For instance of such appointment, *see* Madras List of Local Rules and Orders, Vol. I, Ed. 1898, p. 251 ; Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. cxlv.

<sup>3</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 100.

<sup>4</sup> For instance of such notifications, *see* Burma Laws List, Ed. 1897, p. 314.

## (Part II.—Acquisition. Sec. 4.)

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability ;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age ; and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

Provided that—

- (i) no person shall be deemed “entitled to act” whose interest in the subject-matter shall be shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;
- (ii) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;
- (iii) the provisions of Chapter XXXI<sup>1</sup> of the Code of Civil Procedure XIV of 1883 shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act ; and
- (iv) no person “entitled to act” shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

## PART II.

### ACQUISITION.

#### *Preliminary Investigation.*

4. (1) Whenever it appears to the Local Government that land in any locality is likely to be needed for any public purpose, a notification to that

publication  
of preliminary  
notification and

<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 396.

*(Part II.—Acquisition. Secs. 5-6.)*

effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality. powers of officers the: upon.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality ;

to dig or bore into the subsoil ;

to do all other acts necessary to ascertain whether the land is adapted for such purpose ;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon ;

to mark such levels, boundaries and line by placing marks and cutting trenches ;

and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle :

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

5. The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final. Payment for damage.

*Declaration of intended Acquisition.*

6. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders : Declaration that land is required for a public purpose.

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall

## (Part II.—Acquisition. Secs. 7-9.)

state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such declaration, the Local Government may acquire the land in manner hereinafter appearing.

After declaration, Collector to take order for acquisition.

7. Whenever any land shall have been so declared to be needed for a public purpose, or for a Company, the Local Government, or some officer authorized by the Local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

and to be marked out, measured and planned.

8. The Collector shall thereupon cause the land (unless it has been already marked out under section 4) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

Notice to persons interested.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under Part III of the Indian Post Office Act, 1866.<sup>1</sup>

XIV of 18

<sup>1</sup> See now the Indian Post Office Act, 1898 (VI of 1898), printed, *infra*, p. 683.

## (Part II.—Acquisition. Secs. 10-14.)

10. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

Power to require and enforce the making of statements as to names and interests.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of

XLV of 1860. sections 175 and 176 of the Indian Penal Code.<sup>1</sup>

*Enquiry into Measurements, Value and Claims, and Award by the Collector.*

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

Enquiry and award by Collector.

- (i) the true area of the land ;
- (ii) the compensation which in his opinion should be allowed for the land ; and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

12. (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land and the apportionment of the compensation among the persons interested.

Award of Collector when to be final.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

13. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

Adjournment of enquiry.

14. For the purpose of enquiries under this Act the Collector shall have

Power to summon and

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 286.

## (Part II.—Acquisition. Secs. 15-17.)

power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure.<sup>1</sup>

XIV of 1882.

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

*Taking Possession.*

16. When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

17. (1) In cases of urgency, whenever the Local Government so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Local Government, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances :

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed

(Part III.—Reference to Court and Procedure thereon. Secs. 18-20.)

for in awarding compensation for the land under the provisions here contained.

### PART III.

#### REFERENCE TO COURT AND PROCEDURE THEREON.

18. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested. Reference to Court.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made,—

- (a) if the person making it was present or represented before the collector at the time when he made his award, within six weeks from the date of the Collector's award ;
- (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.

19. (1) In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,— Collector's statement to the Court.

- (a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon ;
- (b) the names of the persons whom he has reason to think interested in such land ;
- (c) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11 ; and,
- (d) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

20. The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the objection, and directing their appearance Service of notice.

(Part III.—Reference to Court and Procedure thereon. Secs. 21-23.)

before the Court on that day, to be served on the following persons, namely:—

- (a) the applicant;
- (b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and,
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

Restriction  
on scope of  
proceedings.  
Proceedings  
to be in  
open Court.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding.

Matters to be  
considered  
in determin-  
ing compen-  
sation.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

*first*, the market-value of the land at the date of the publication of the declaration relating thereto under section 6;

*secondly*, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;

*thirdly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

*fourthly*, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings;

*fifthly*, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

*sixthly*, the damage (if any) *bond fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.

(2) In addition to the market-value of the land, as above provided, the Court shall in every case award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition.



(Part III.—Reference to Court and Procedure thereon. Secs. 24-27.)

24. But the Court shall not take into consideration—

- first*, the degree of urgency which has led to the acquisition ;
- secondly*, any disinclination of the person interested to part with the land acquired ;
- thirdly*, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit ;
- fourthly*, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put ;
- fifthly*, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired ;
- sixthly*, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put ; or,
- seventhly*, any outlay or improvements on, or disposal of, the land acquired, commenced, made or affected without the sanction of the Collector after the date of the publication of the declaration under section 6.

Matters to be neglected in determining compensation.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11.

Rules as to amount of compensation.

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

26. Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Form of awards.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

Costs.

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court shall be of opinion that the claim

(Part III.—Reference to Court and Procedure thereon. Sec. 28. Part IV.—Apportionment of Compensation. Secs. 29-30. Part V.—Payment. Sec. 31.)

of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

Collector may be directed to pay interest on excess compensation.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

#### PART IV.

##### APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 11 if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

#### PART V.

##### PAYMENT.

Payment of compensation or deposit of same in Court.

31. (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted :

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount :

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18 :

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Collector may, with the sanction of the Local Government, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land-revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract<sup>1</sup> in respect thereof.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Court shall—

Investment of money deposited in respect of lands, belonging to persons incompetent to alienate.

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(b) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit ;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would, for the time being, have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid ; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely :—

(a) the costs of such investments as aforesaid ;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the

<sup>1</sup> As to persons who are competent to contract, *see* s. 11 of the Indian Contract Act, 1872 (IX of 1872), printed, General Acts, Vol. II, Ed. 1898, p. 802.

(Part V.—Payment. Secs. 33-34. Part VI.—Temporary Occupation of Land. Secs. 35-36.)

time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto except such as may be occasioned by litigation between adverse claimants.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

## PART VI.

### TEMPORARY OCCUPATION OF LAND.

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or either periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

36. (1) On payment of such compensation, or on executing such agreement, or on making a reference under section 35,

(Part VI.—Temporary Occupation of Land. Sec. 37. Part VII.—Acquisition of Land for Companies. Secs. 38-40.)

the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

and compensation on restoration.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein :

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company,

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court.

Difference as to condition of land

## PART VII.

### ACQUISITION OF LAND FOR COMPANIES.

38. (1) Subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf, the Local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

Company may be authorized to enter and survey.

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted ; and section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Local Government, nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous consent of Local Government and execution of agreement necessary. Previous enquiry.

40. (1) Such consent shall not be given unless the Local Government be satisfied, by an enquiry held as hereinafter provided,—

- (a) that such acquisition is needed for the construction of some work, and
- (b) that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

*(Part VII.—Acquisition of Land for Companies. Secs. 41-44.)*

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure<sup>1</sup> in the case XIV of of a Civil Court.

Agreement  
with Secre-  
tary of State  
in Council.

41. Such officer shall report to the Local Government the result of the enquiry, and, if the Local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council, providing to the satisfaction of the Local Government for the following matters, namely :—

- (1) the payment to Government of the cost of the acquisition ;
- (2) the transfer, on such payment, of the land to the Company ;
- (3) the terms on which the land shall be held by the Company ;
- (4) the time within which, and the conditions on which, the work shall be executed and maintained ; and
- (5) the terms on which the public shall be entitled to use the work.

Publication  
of agreement.

42. Every such agreement shall, as soon as may be after its execution, be published in the Gazette of India, and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Sections 39  
to 42 not to  
apply where  
Government  
bound by  
agreement  
to provide  
land for  
Companies.

43. The provisions of sections 39 to 42, both inclusive, shall not apply, and the corresponding sections of the Land Acquisition Act, 1870,<sup>2</sup> shall be X of 187 deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which, under any agreement between such Company and the Secretary of State for India in Council, the Government is, or was, bound to provide land.

How agree-  
ment  
between  
Railway  
Company and  
Secretary of  
State may be  
proved.

44. In the case of the acquisition of land for the purposes of a Railway Company, the existence of such an agreement as is mentioned in section 43 may be proved by the production of a printed copy thereof purporting to be printed by order of Government.

<sup>1</sup> Printed, General Acts, Vol IV, Ed. 1898, p. 262.

<sup>2</sup> Repealed by the present Act.

## PART VIII.

## MISCELLANEOUS.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge. Service of notices.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under Part III of the Indian Post Office Act, 1866,<sup>1</sup> and service of it may be proved by the production of the addressee's receipt.

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up, destroys, damages or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both. Penalty for obstructing acquisition of land.

47. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector. Magistrate to enforce surrender.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken. Completion of acquisition not compulsory, but compensation to be awarded when not completed.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage

<sup>1</sup> See now the Indian Post Office Act, 1897 (VI of 1893), printed, *infra*, p. 683.

suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

Acquisition  
of part of  
house or  
building.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired :

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired :

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court, and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory or building.

(2) If, in the case of any claim under section 23, sub-section (1), *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary ; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 11.

Acquisition  
of land at  
cost of a local  
authority or  
Company.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

(2) In any proceeding held before a Collector or Court in such cases the



local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation :

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same. Exemption from stamp-duty and fees.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends. Notice in case of suits for anything done in pursuance of Act.

IV of 1882. 53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure<sup>1</sup> shall apply to all proceedings before the Court under this Act. Code of Civil Procedure to apply to proceedings before Court.

IV of 1882. 54. Subject to the provisions of the Code of Civil Procedure<sup>1</sup> applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceedings under this Act. Appeals in proceedings before Court.

55. (1) The Local Government shall have power to make rules<sup>2</sup> consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made. Power to make rules.

(2) The power to make, alter and add to rules under sub-section (1) shall be subject to the condition of the rules being made, altered or added to after previous publication.

(3) All such rules, alterations and additions shall, when sanctioned by the Governor General in Council, be published in the official Gazette, and shall thereupon have the force of law.

<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

<sup>2</sup> For instance of rules so made *see* —

(a) Central Provinces List of Local Rules and Orders, Ed. 1893, p. 59 ;

(b) North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 40. These rules were made under s. 59 of Act X of 1870, and are kept alive by s. 2, *supra*.

ACT No. II OF 1894.<sup>1</sup>

[16th February, 1894.]

An Act to amend the Indian Ports Act, 1889.<sup>2</sup>

WHEREAS it is expedient to amend the Indian Ports Act, 1889; It is hereby enacted as follows :—

1. For the word "Ditto," where it occurs against "Balasore Ports" in the fourth column of Part I (Bengal) of the first schedule to the Act aforesaid, the following shall be substituted, namely :—

"Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting-vessels, which shall not be chargeable more than once in thirty days."

ACT No. III OF 1894.<sup>3</sup>

[23rd February, 1894.]

An Act to amend the Code of Criminal Procedure, 1882,<sup>4</sup>  
and the Indian Penal Code.<sup>5</sup>

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882,<sup>4</sup> and the Indian Penal Code<sup>5</sup>; It is hereby enacted as follows :—

1 to 4. [*Amendment of the Code of Criminal Procedure, 1882.*] Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898).

*Indian Penal Code.*<sup>5</sup>

5. To section 177 of the Indian Penal Code the following shall be added, namely :—

"*Explanation.*—In section 176 and in this section the word 'offence'

<sup>1</sup> Short title, "The Indian Ports Act (1889) Amendment Act, 1894." See the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1893, Pt. V, p. 91; for Report of the Select Committee, see *ibid*, 1894, Pt. V, p. 35; for Proceedings in Council, see *ibid*, Pt. VI, pp. 19, 44 and 48.

<sup>2</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 287.

<sup>3</sup> Short title, "The Indian Criminal Law Amendment Act, 1894." See the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1893, Pt. V, p. 97; for Report of the Select Committee, see *ibid*, 1894, Pt. V, p. 37; for Proceedings in Council, see *ibid*, 1893, Pt. VI, p. 196; *ibid*, 1894, Pt. VI, pp. 21, 49 and 55.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act XLV of 1860, declared in force there, see s. 4 and the first schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

The Act has been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872), as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), see Gazette of India, 1895, Pt. I, p. 310.

<sup>4</sup> Rep. by the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

<sup>5</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

Amendment  
of first sche-  
dule to Act  
of 1889, as  
regards  
Balasore  
ports.

Addition to  
section 177  
of Indian  
Penal Code.

includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word 'offender' includes any person who is alleged to have been guilty of any such act."

6. To section 203 of the said Code the following shall be added, namely:—

Addition to  
sect on 203  
of same Code.

"*Explanation.*—In sections 201 and 202 and in this section the word 'offence' includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460."

XLV of 1860

7. In section 212 of the Indian Penal Code,<sup>1</sup> immediately before the *Exception* the following shall be inserted, namely:—

Addition to  
section 212 of  
same Code.

"'Offence' in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India."

8. After section 216 of the said Code the following shall be inserted, namely:—

Addition of  
new sections  
after section  
216 of same  
Code.

"216A. Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Penalty for  
harbouring  
robbers or  
dacoits.

"*Explanation.*—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without British India.

"*Exception.*—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

"216B. In sections 212, 216 and 216A the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person in any way to evade apprehension.

Definition of  
'harbour' in  
sections 212,  
216 and  
216A.

ACT No. V of 1894.<sup>1</sup>

[2nd March, 1894.]

An Act to amend the Code of Civil Procedure.<sup>2</sup>

WHEREAS it is expedient to amend the Code of Civil Procedure; It is XIV of 1882 hereby enacted as follows:—

1. (1) This Act may be called the Civil Procedure Code Amendment Act, 1894; and

(2) It shall come into force at once.

2. After section 310 of the Code of Civil Procedure<sup>3</sup> the following shall XIV of 1882 be inserted, namely:—

“ 310A. Any person whose immoveable property has been sold under this Chapter may at any time within thirty days from the date of sale apply to have the sale set aside on his depositing in Court—

(a) for payment to the purchaser, a sum equal to five per centum of the purchase-money, and

(b) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale, have been received by the decree-holder.

“ If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale :

“ Provided that, if a person applies under the next following section to set aside the sale of his immoveable property, he shall not be entitled to make an application under this section.

“ Nothing in this section shall be construed to relieve the judgment-debtor from any liability he may be under in respect of costs and interest not covered by the proclamation of sale.”

3. In section 315 of the Code of Civil Procedure<sup>3</sup> the figures and letter XIV of 1882 “ 310A ” shall be inserted after the word “ section ” and before the figures “ 312 ”.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1893, Pt. V, p. 60; for Report of the Select Committee, see *ibid.*, 1894, Pt. V, p. 43; for Proceedings in Council, see *ibid.*, 1894, Pt. VI, pp. 43, 54 and 59 to 71.

This Act is in force in Upper Burma (except the Shan States) as part of the original Act XIV of 1882, declared in force there by s. 4 and the first schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

<sup>2</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

title and  
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addition of  
new section  
after section  
10 of Code.  
application  
of judgment-  
debtor to set  
aside sale on  
deposit of  
costs.

amendment  
section 315  
Code.

(Secs. 1-4.)

ACT No. VII of 1894.<sup>1</sup>

[8th March, 1894.]

An Act to amend the Prisoners Act, 1871.<sup>2</sup>

V of 1871.

WHEREAS it is expedient to amend the Prisoners Act, 1871; It is hereby enacted as follows:—

1. To section 1 of the said Act the following shall be added, namely:—

Addition to  
section 1.  
Act V, 1871.

“Any reference in Part III or Part V of this Act to a prison or jail, or to imprisonment or confinement, may be read as referring to a reformatory or reformatory school or to confinement therein.”

2. Section 9 of the said Act is hereby repealed.

Repeal of  
section 9,  
Act V, 1871.  
Amendment  
of section 14,  
Act V, 1871.

3. In section 14 of the said Act, for the words “or in pursuance of a warrant of any Court established in Calcutta, Madras or Bombay under the Presidency Small Cause Courts Act, 1882,” the following shall be substituted, namely:—

“or in pursuance of a warrant of any Civil Court established in Calcutta, Madras or Bombay under any law for the time being in force.”

4. (1) In section 16 of the said Act, for the words “acting under the authority” the words “acting, whether within or without British India, under the general or special authority” shall be substituted.

Amendment  
of, and  
addition to,  
section 16,  
Act V, 1871.

(2) To the same section the following shall be added, namely:—

“or, with the previous sanction of the Governor General in Council in each case, to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal of any Native Prince or State under the suzerainty of Her Majesty:

“Where a Court or tribunal of such a Native Prince or State has passed a sentence which cannot be executed without the concurrence of an officer of the British Government, and such sentence has been judicially considered on the merits and confirmed by any such officer specially authorised by name or by office in that behalf, such sentence, and any order or warrant issued in pursuance

<sup>1</sup> Short title, “The Prisoners Act (1871) Amendment Act, 1894.” See the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1893, Pt. V, p. 105; for Report of the Select Committee, see *ibid.*, 1894, Pt. V, p. 61; for Proceedings in Council, see *ibid.*, 1893, Pt. VI, p. 210; *ibid.*, 1894, Pt. VI, pp. 10, 71 and 95.

The Act is in force in Upper Burma (except the Shan States) as being part of the original Act V of 1871, declared in force there by s. 4 and the first schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

The Act has also been declared to be in force in the Santhál Parganas, by notification under s. 3 of the Santhál Parganas Settlement Regulation (III of 1872) as amended by the Santhál Parganas Laws Regulation, 1886 (III of 1886), see Gazette of India, 1895, Pt. I, p. 310.

<sup>2</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 195.

thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Governor General in Council."

5. (1) For the first fifty-one words of section 19 of the said Act the following shall be substituted, namely :—

"The Governor General in Council or the Local Government may authorise the reception, detention or imprisonment in any place in British India, or in any place under such Government, as the case may be, for the period specified in their respective sentences, of persons sentenced within the territories of any Native Prince or State under the suzerainty of Her Majesty to imprisonment or transportation for any of the following offences :"

(2) In the same section, after the words "theft of cattle" the following shall be inserted, namely :—

"or for any other act (referred to in this section as an offence) which would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code<sup>1</sup> mentioned in the schedule to the Foreign Jurisdiction and Extradition Act, 1879.<sup>2</sup>"

XLV of 1860

XXI of 1879.

(3) For the proviso to the same section the following shall be substituted, namely :—

"Provided that such sentences have been pronounced after trial before a tribunal of which the presiding Judge, or, if the Court consisted of more than one Judge, at least one of such Judges, was an officer of the British Government authorised to act as such Judge by the Native Prince or State or by the Governor General in Council."

6. For section 30 of the said Act the following shall be substituted, namely :—

"30. When any person is, or has been, sentenced to imprisonment or transportation by any Court, or in default of giving security for keeping the peace or maintaining good behaviour has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882,<sup>3</sup> the Local Government or (subject to its orders and under its control) the Inspector General of Prisons may order his removal during the period for which he has been sentenced to imprisonment or transportation or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of confinement within the territories subject to the same Local Government."

X of 1892.

<sup>1</sup> Printed, General Acts, Vol. I, Ed 1898, p. 240.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 288.

<sup>3</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

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7. For section 32 of the said Act the following shall be substituted, namely :—

Substitution of new section for section 32, Act V, 1871. Removal of prisoners from territories under one Local Government to territories under another.

“32. When any person is, or has been, sentenced to imprisonment or transportation by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882,<sup>1</sup> the Governor General in Council may order his removal during the period for which he has been sentenced to imprisonment or transportation or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of confinement in British India.”

X of 1882.

## THE INDIAN TARIFF ACT, 1894.

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SCHEDULES II, III AND IV.—IMPORT TARIFF.

SCHEDULE V.—EXPORT TARIFF.

ACT No. VIII OF 1894.<sup>2</sup>

[10th March, 1894.]

An Act to amend the law relating to Customs-duties, and for other purposes.

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea, and to provide for the levy of

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 58 ; for Report of the Select Committee, see *ibid*, Extraordinary, dated 10th March, 1894, p. 13 ; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 71 and 96.

duties on goods crossing the frontier of certain Foreign European Settlements in India and of the territories of certain Native Chiefs ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Tariff Act, 1894.

(2) It extends to the whole of British India except Aden and Perim ; and

(3) It shall come into force at once.

2. (1) The Acts mentioned in the first schedule are repealed to the extent specified therein.

(2) But all notifications published, and rules and orders made, under any of those Acts, and in force immediately before the commencement of this Act, shall, so far as they are consistent herewith, be deemed to have been respectively published and made under this Act : and

(3) All references made to the Indian Tariff Act, 1875,<sup>1</sup> and the Indian Tariff Act, 1882,<sup>2</sup> in Acts or Regulations passed before the commencement of this Act, shall be deemed to be made to this Act. XVI of 1875  
XI of 1882.

(4) Nothing in this Act shall authorize the levy of duties of customs on any article carried from one customs-port in British India to another such port, except salt, opium and spirit.

3. There shall be levied and collected, in every port to which this Act applies, the duties specified in the second, third, fourth and fifth schedules.

4. On all pepper exported by sea from the port of Cochin there shall be levied such duty not exceeding nine rupees per khandi as the Governor of Fort Saint George in Council may determine ; and at the close of each year, or as soon thereafter as may be convenient, the Customs-Collector at the said port shall, after deducting the expenses of collection, pay the duty collected under this section to the Governments of Travancore and Cochin in such proportion and in such manner as the Governor of Fort Saint George in Council may direct.

5. (1) Duties of customs shall be levied at the rates respectively prescribed in the second, third and fourth schedules on goods passing by land out of, and in the fifth schedule on goods passing by land into,—

(a) Foreign European Settlements in India ;

(b) any territory declared, under the power hereinafter in this section conferred, to be foreign territory.

(2) Subject to the control of the Governor General in Council, the Governor of Fort Saint George in Council and the Governor of Bombay in Council

<sup>1</sup> Act XVI of 1875 was repealed by the Indian Tariff Act, 1882 (XI of 1882), s. 2.

<sup>2</sup> Act XI of 1882 is repealed by s. 2 (1) of this Act.



(Secs. 8 A.)

may, by notification in the local official Gazette, respectively, declare that the territory of any Native Chief situate within, or bordering on, the territories respectively administered by such Governors, but not subject to the jurisdiction of the Courts and Civil authorities of such territories, shall be deemed, for the purposes of this section, to be foreign territory.

(3) The Governor General in Council may, by notification in the Gazette of India, declare that the territory of any other Native Chief shall be deemed, for the purposes of this section, to be foreign territory.

6. In Act No. XVI of 1863,<sup>1</sup> section 1, for the words "calculated at ten" the words "not exceeding five" shall be substituted.

Amendment of Act XVI, 1863, section 1.

7. (1) Salt, opium and spirit imported from any port in British India, and protected by the certificate of an officer empowered in that behalf by the Governor General in Council or the Local Government, are chargeable with only the amount, if any, by which the duty leviable thereon under the third schedule exceeds the duty shown by such certificate to have been already paid in respect thereof.

Duty on salt, opium and spirit, when protected by a certificate.

(2) The amount, if any, paid to the Government as the price of such salt or opium is not duty within the meaning of this section.

(3) Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs Act, 1878.<sup>2</sup>

VIII of 1878.

8. So far as regards the Presidency of Fort Saint George, the unrepealed provisions of Act No. VI of 1844,<sup>3</sup> and, so far as regards the Presidency of Bombay, the unrepealed provisions of Act No. XXIX of 1857,<sup>4</sup> relating to the levy of duties and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of section 5, sub-section (1), clause (b).

Application of certain provisions as to duties and goods.

<sup>5</sup>8A. (1) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon the exportation therefrom of any article and the article is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

Additional import duty on bounty-fed articles.

<sup>1</sup> "The Excise (Spirits) Act, 1863," printed, General Acts, Vol. I, Ed. 1898, p. 403.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 168.

<sup>3</sup> Printed, Madras Code, Ed. 1888, p. 119.

<sup>4</sup> For Act XXIX of 1857, see the revised edition, as modified up to 1st December, 1895, published by the Legislative Department.

<sup>5</sup> S. 8A. was added by the Indian Tariff Amendment Act, 1899 (XIV of 1899), while this volume was passing through the Press.

## (Secs. 9-11. Schedule I.—Acts repealed.)

“(2) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (1).

9. All notifications published under this Act may be cancelled by the authority publishing the same.

10. In the event of any duty of customs or excise on any article being imposed, increased, decreased or remitted after the making of any contract for the sale of such article without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such article duty-paid where duty was chargeable at that time,—

(a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, is paid, the seller may add so much to the contract-price as will be equivalent to the duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the purchaser may deduct so much from the contract-price as will be equivalent to the decrease of duty, or remitted duty, and he shall not be liable to pay or be sued for or in respect of such deduction.

11. In the second paragraph of section 23 of the Sea Customs Act, 1878,<sup>1</sup> the words “with the previous sanction of the Governor General in Council” shall be inserted after the word “may.”

## SCHEDULE I.—(ACTS REPEALED.)

Number and year.	Title.	Extent of repeal
XI of 1882 . . .	<i>Acts of the Governor General in Council.</i> Indian Tariff Act, 1882 . . .	So much as has not been repealed. Section 8.
<sup>2</sup> II of 1887 . . .	An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.	
<sup>2</sup> II of 1888 . . .	An Act to provide for the levy of a customs-duty on Petroleum.	Section 1.
<sup>2</sup> VIII of 1889 . . .	An Act to amend the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.	Sections 3, 4 and 5.
XII of 1890 . . .	An Act to amend the Indian Tariff Act, 1882.	The whole.
I of 1892 . . .	An Act to amend the Indian Tariff Act, 1882.	Ditto.
IX of 1893 . . .	An Act to amend the Indian Tariff Act, 1882, as amended by subsequent Acts.	Ditto.

<sup>1</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 168.

<sup>2</sup> Printed, General Acts, Vol. V, Ed. 1939, pp. 119, 191 and 291 respectively.

Power to cancel notifications.

When contracts have been entered into, amount of increased or decreased duty to be added or deducted.

Amendment of Act VIII of 1878, section 23.

VIII of 18

## (Schedule II.—Import Tariff.)

<sup>1</sup> SCHEDULE II.—(IMPORT TARIFF.)

## Arms, Ammunition and Military Stores,

including also any articles, other than those included in Nos. 1 to 12 of this Schedule, which are "arms" within the meaning of the Indian Arms Act,<sup>2</sup> and any articles which the Governor General in Council may, by notification in the Gazette of India, declare to be "ammunition" or "military stores" for the purposes of this Act.

XI of 1878.

Names of Articles	Duty.	
	Rs.	A.
1. Firearms other than pistols, including gas and air guns and rifles, for each . . . . .	50	0
2. Barrels for the same, whether single or double, for each . . . . .	30	0
3. Pistols, for each . . . . .	15	0
4. Barrels for the same, whether single or double, for each . . . . .	10	0
5. Springs used for firearms, including gas and air guns and rifles, for each . . . . .	8	0
6. Gunstocks, sights, blocks and rollers, for each . . . . .	5	0
7. Revolver-breeches, for each cartridge they will carry . . . . .	2	8
8. Extractors, nippers, heel-plates, pins, screws, tangs, bolts, thumb-pieces, triggers, trigger-guards, hammers, pistons, plates and all other parts of a firearm (including a gas and air gun or rifle) not herein otherwise provided for, and all tools used for cleaning or putting together or loading the same, for each . . . . .	1	8
9. Machines for making, loading, or closing cartridges, for each . . . . .	10	0
10. Machines for capping cartridges, for each . . . . .	2	8

*Exception I.*—Articles falling under the 5th, 6th, 8th, 9th or 10th head of the foregoing list, when they appertain to a firearm falling under the 1st or 3rd head, and are fitted into the same case with such firearm, are free.

*Exception II.*—The following are also free, namely :—

- (a) Arms forming part of the regular equipment of an officer entitled to wear diplomatic, military, naval, or police uniform ;

<sup>1</sup> The Schedules II to V here printed were substituted for the former Schedules by the Indian Tariff Act (1894) Amendment Act, 1896 (III of 1896), printed, *infra*, p. 273.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 243.

## (Schedule II.—Import Tariff.)

- (b) a sword, a revolver, or a pair of pistols, when accompanying an officer of Her Majesty's Regular Forces, or a commissioned officer of a volunteer corps or certified by the commandant of the corps to which such officer belongs, or, in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving, to be imported by the officer for the purposes of his equipment;
- (c) swords and revolvers which are certified by an Inspector-General of Police to be part of the ordinary equipment of members of the Police force under his charge;
- (d) swords forming part of the equipment of native commissioned officers of Her Majesty's Army;
- (e) swords for presentation as army or volunteer prizes;
- (f) arms, ammunition, and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a Native State in India which may be maintained and organised for Imperial Service;
- (g) Morris tubes and patent ammunition when imported by officers commanding British and Native regiments or volunteer corps, for the instruction of their men.

*Proviso 1.*—No duty in excess of ten per cent *ad valorem* shall be levied upon any of the articles numbered 1 to 10 in the foregoing list when they are imported in reasonable quantity, for his own private use, by any persons lawfully entitled to possess the same.

*Proviso 2.*—When any articles which have been otherwise imported, and upon which duty has been levied or is leviable under numbers 1 to 10, are purchased retail from the importer by a person lawfully entitled as aforesaid, in reasonable quantity for his own private use, the importer may apply to the Customs-Collector for a refund or remission (as the case may be) of so much of the duty thereon as is in excess of ten per cent *ad valorem*; and if such Collector is satisfied as to the identity of the articles, and that such importer is in other respects entitled to such refund or remission, he shall grant the same accordingly.

	Tariff valuation.	Rate of duty.
	Rs. A.	
11. Gunpowder, all sort . . . . .	<i>ad val-</i> <i>orem.</i>	} 10 per cent.
12. All other sorts of arms, ammunition, and military stores . . . . .	"	

## SCHEDULE III.

## (Schedule III.—Import Tariff.)

## 1 SCHEDULE III.—(IMPORT TARIFF.)

## LIQUORS, OPIUM, SALT AND SALTED FISH.

No.	Names of Articles.	Per	Rate of Duty.
			Rs. A.
1	LIQUORS—		
	Ale, beer and porter . . . . .	Imperial gallon or six quart bottles. }	0 1
	Cider and other fermented liquors . .		
	Liqueurs . . . . .	” ”	6 0
	Spirit which has been rendered effectually and permanently unfit for human consumption . . . . .	ad valorem	Five per cent.
	Spirit when used in drugs, medicines or chemicals in a proportion of less than twenty per cent. of spirit of the strength of London proof . .		
	Spirit when so used in a proportion of twenty per cent. and upwards.	Imperial gallon or six quart bottles of the strength of London proof.	6 0 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles.	Imperial gallon or six quart bottles.	8 0
	Spirit, other sorts . . . . .	Imperial gallon or six quart bottles of the strength of London proof.	6 0 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Wines—		
	Champagne and all other sparkling wines not containing more than 42 per cent. of proof spirit.	Imperial gallon or six quart bottles.	2 8
	All other sorts of wines not containing more than 42 per cent. of proof spirit.	Ditto	1 0
	Provided that all sparkling and still wines containing more than 42 per cent. of proof spirit shall be liable to duty at the rate applicable to spirit, other sorts.		

<sup>1</sup> This Schedule was substituted for the original Schedule by the Indian Tariff Act (1894) Amendment Act, 1896 (III of 1896), printed, *infra*, p. 273.

## (Schedule III. Schedule IV.—Import Tariff.)

SCHEDULE III.—(IMPORT TARIFF)—*contd.*LIQUORS, OPIUM, SALT AND SALTED FISH—*contd.*

No.	Names of Articles.	Per	Rate of Duty.
			Rs. A.
2	OPIUM, not covered by a Government pass.	ser of 80 tolas . . .	21 0
3	SALT . . . . .	Indian maund of 82½lb avoirdupois weight.	The rate at which excise-duty is for the time being leviable on salt manufactured in the place where the import takes place.
4	SALTED FISH, wet or dry . . .	Indian maund of 82½lb avoirdupois weight.	Such rate or rates of duty not exceeding twelve annas, as the Governor (General in Council may, by notification in the Gazette of India, from time to time prescribe. <sup>1</sup>

<sup>2</sup> SCHEDULE IV.—(IMPORT TARIFF.)

## GENERAL DUTIES.

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Animals, living.</b>		Rs. A.	
1	HORSES, CATTLE, SHEEP and all other living animals of all kinds . . . . .	...	...	Free.
	<b>Articles of Food and Drink.</b>			
2	COFFEE . . . . .	cwt.	70 0 <sup>3</sup>	Five per cent.
3	FRUITS AND VEGETABLES, except fresh fruits and vegetables not separately enumerated, which are free—			
	Almonds without shell . . . . .	"	48 0 <sup>3</sup>	"
	" in the shell . . . . .	"	15 8 <sup>3</sup>	"

<sup>1</sup> See Notification No. 1548 S. R., dated 24th March 1894, Gazette of India, 1894, Pt. I, p. 171.<sup>2</sup> This Schedule was substituted for the original Schedule by the Indian Tariff Act (1894) Amendment Act, 1896 (III of 1896), printed, *in fac*, p. 273.<sup>3</sup> For revised valuation, see Gazette of India, 1895, Pt. I, p. 253.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names or Articles.	Per	Tariff Valuation.	Duty.
	FRUITS AND VEGETABLES, except fresh fruit and vegetables not separately enumerated, which are free—		Rs. A.	
	Cashew or cajoo kernels . . . .	cwt.	12 0 <sup>1</sup>	Five per cent.
	Cocoanuts . . . .	thousand	35 0	"
	" kernel (khopra) . . . .	cwt.	11 0 <sup>1</sup>	"
	Currents, European, in cases . . . .	"	10 0 <sup>1</sup>	"
	" " in cans . . . .	"	22 0 <sup>1</sup>	"
	" Persian . . . .	"	14 0	"
	Dates, dry, in bags . . . .	"	5 8	"
	" wet " . . . .	"	4 0	"
	" " in pots and boxes . . . .	"	8 8	"
	Figs, Persian, dried . . . .	"	8 0	"
	Garlic . . . .	"	5 0	"
	Hops . . . .	"	...	Free.
	Pistachio nuts . . . .	cwt.	32 0 <sup>1</sup>	Five per cent.
	Prunes, Bussora (alu-Bokhara) . . . .	"	20 0 <sup>1</sup>	"
	Raisins, black . . . .	"	10 0 <sup>1</sup>	"
	" kishmish, Persian Gulf and Red Sea . . . .	"	15 0 <sup>1</sup>	"
	" Munakka, Persian Gulf and Red Sea . . . .	"	9 0 <sup>1</sup>	"
	" other sorts . . . .	...	<i>ad valorem</i>	"
	Walnuts . . . .	cwt.	10 0 <sup>1</sup>	"
	All other sorts of fruits and vegetables . . . .	...	<i>ad valorem</i>	"
4	GRAIN AND PULSE, including broken grain and pulse, but not including flour . . . .	...	...	Free.
5	MINERAL AND AERATED WATERS, and all unfermented and non-alcoholic beverages . . . .	...	<i>ad valorem</i>	Five per cent.
26	PROVISIONS, OILMAN'S STORES AND GROCERIES—			
	Bacon in canvas and cans, jowls and cheeks . . . .	lb	0 12	"
	Beef and Pork . . . .	tierce of 3 cwt.	100 0 <sup>1</sup>	"
	Beche de mer . . . .	barrel of 2 cwt.	75 0 <sup>1</sup>	"
	Butter . . . .	lb	50 0	"
			1 0	"

<sup>1</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 253.<sup>2</sup> This entry was substituted for the original entry, by Notification No. 2434, dated 24th May, 1898, see Gazette of India, 1898, Pt. I, p. 624.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Articles of Food and Drink</b> — <i>contd.</i>		Rs. A.	
6	PROVISIONS, OILMAN'S STORES AND GROCERIES— <i>contd.</i>			
	Cheese . . . . .	lb	0 14 <sup>1</sup>	Five per cent.
	China preserves . . . . .	box of six jars.	5 8	"
	„ fruit preserves, dry candied . . . . .	lb	0 5	"
	Cocum . . . . .	cwt.	5 0	"
	Fish-maws . . . . .	"	100 0	"
	Flour . . . . .	barrel or sack of 200lb	20 0 <sup>1</sup>	"
	Ghi . . . . .	cwt.	40 0	"
	Groceries not otherwise described . . . . .	...	<i>ad valorem</i>	"
	Pork hams . . . . .	lb	0 14 <sup>1</sup>	"
	Sago . . . . .	cwt.	8 8 <sup>2</sup>	"
	Shark-fins . . . . .	"	40 0	"
	* Singally and sozille . . . . .	"	25 0	"
	Tapioca . . . . .	"	9 8	"
	Vinegar, European, in wood . . . . .	Imperial gallon.	1 0	"
	„ Persian . . . . .	"	1 8	"
	„ country . . . . .	"	0 6	"
	All other sorts of provisions, oilman's stores and groceries . . . . .	...	<i>ad valorem</i>	"
7	SPICES—			
	Betelnuts—Goa . . . . .	cwt.	17 0 <sup>1</sup>	"
	„ —in the husk . . . . .	thousand	2 0	"
	„ —all other sorts . . . . .	...	<i>ad valorem</i>	"
	Cardamoms, Ceylon . . . . .	cwt.	150 0 <sup>1</sup>	"
	Chillies, dry . . . . .	"	11 0 <sup>1</sup>	"
	Cloves . . . . .	"	20 0 <sup>3</sup>	"
	„ stems and heads . . . . .	"	4 0	"
	„ in seeds, narlavang . . . . .	"	8 8 <sup>1</sup>	"
	Ginger, dry . . . . .	"	16 0 <sup>1</sup>	"
	Mace . . . . .	lb	1 8	"
	Nutmegs . . . . .	"	1 0 <sup>1</sup>	"
	Nutmegs in shell . . . . .	"	0 8	"

<sup>1</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 253.<sup>2</sup> For revised valuation, see Gazette of India, 1897, Pt. I, p. 275.<sup>3</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 797.<sup>4</sup> These have been exempted from the import duty leviable under this Act, see Gazette of India, 1898, Pt. I, p. 1202.



## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Articles of Food and Drink</b> — <i>contd.</i>		Rs. A.	
7	<b>SPICES—<i>contd.</i></b>			
	Pepper, black . . . . .	cwt.	16 0 <sup>1</sup>	Five per cent.
	„ long . . . . .	„	7 0 <sup>2</sup>	„
	„ white . . . . .	„	30 0 <sup>2</sup>	„
	All other sorts of spices . . . . .	...	<i>ad valorem</i>	„
8	<b>SUGAR, China, candy . . . . .</b>	cwt.	20 0	„
	„ loaf . . . . .	„	21 0 <sup>2</sup>	„
	„ crystallized, beet . . . . .	„	13 0 <sup>2</sup>	„
	„ „ and soft from China . . . . .	„	13 0 <sup>2</sup>	„
	„ „ and soft, from Mauritius . . . . .	„	11 0	„
	„ soft or raw, other than from Mauritius or China . . . . .	„	10 0	„
	„ all other sorts, including saccharine produce of all kinds and confectionery . . . . .	...	<i>ad valorem</i>	„
9	<b>TEA, black . . . . .</b>	lb	0 8	„
	„ green . . . . .	„	0 12 <sup>2</sup>	„
	<b>Chemicals, Drugs, Medicines, and Narcotics, and Dyeing and Tanning Materials.</b>			
10 <sup>3</sup>	<b>CHEMICAL PRODUCTS AND PREPARATIONS—</b>			
	Acid, sulphuric . . . . .	„	0 2 <sup>2</sup>	„
	Alkali, country (sajji-khar) . . . . .	cwt.	1 8	„
	Alum . . . . .	„	5 0 <sup>2</sup>	„
	Arsenic . . . . .	„	21 8	„
	„ China mansil . . . . .	„	17 0	„
	Bicarbonate of soda . . . . .	„	7 0	„
	Copperas, green . . . . .	„	3 0	„
	Explosives, namely, blasting gelatine, dynamite, roburite, tonite, and all other descriptions, and including detonators and blasting fuse . . . . .	...	<i>ad valorem</i>	„
	Sal ammoniac . . . . .	cwt.	37 0 <sup>2</sup>	„
	Sulphate of copper . . . . .	„	15 8 <sup>2</sup>	„

<sup>1</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 797.<sup>2</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 253.<sup>3</sup> Nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, kainit salts, have been exempted from the duty leviable under this Article, see Gazette of India, 1898, Pt. I, p. 781.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles	Per	Tariff Valuation.	Duty.
	Chemicals, Drugs, Medicines, and Narcotics, and Dyeing and Tanning Materials— <i>contd.</i>		Rs. A.	
10	CHEMICAL PRODUCTS AND PREPARATIONS— <i>contd.</i>			
	Sulphur (brimstone), flour. . . .	cwt.	6 0	Five per cent.
	" ( " ), roll . . . .	"	5 12	"
	" ( " ), rough . . . .	"	4 8	"
	All other sorts of chemical products and preparations, including saltpetre and borax . . . .	...	<i>ad valorem</i>	"
11	DRUGS, MEDICINES, AND NARCOTICS—			
	Aloes, black . . . .	cwt.	14 0 <sup>1</sup>	"
	" Socotra . . . .	"	30 0	"
	Aloe-wood . . . .	lb	6 0	"
	Asafoetida (hing) . . . .	cwt.	65 0	"
	" coarse (hingra) . . . .	"	21 0 <sup>1</sup>	"
	Atary, Persian . . . .	"	15 0	"
	Banslochan (bamboo camphor) . . . .	lb	0 4	"
	Brimstone (amalsara) . . . .	cwt.	50 0 <sup>1</sup>	"
	Calumba or Colombo root . . . .	"	7 0	"
	Camphor, Bhimsaini (baras) . . . .	lb	70 0	"
	" refined, cake . . . .	"	1 4 <sup>1</sup>	"
	" crude, in powder . . . .	"	0 12	"
	Cassia lignea . . . .	cwt.	22 0 <sup>1</sup>	"
	China root (chobchini), rough . . . .	"	8 0	"
	" " ( " ), scraped . . . .	"	17 8	"
	Cubebs . . . .	"	25 8 <sup>1</sup>	"
	Galangal, China . . . .	"	7 0	"
	Pellitory (akalkara) . . . .	"	40 0 <sup>1</sup>	"
	Peppermint crystals, from China and Japan . . . .	lb	11 8 <sup>1</sup>	"
	Quinine and other alkaloids of chin-chona . . . .	...	...	Free.
	Salep . . . .	cwt.	80 0	Five per cent.
	Senna leaves . . . .	"	4 0 <sup>1</sup>	"
	Storax, liquid (rose melloes) . . . .	"	54 0 <sup>1</sup>	"
	Tobacco, unmanufactured . . . .	...	...	Free
	" manufactured . . . .	...	<i>ad valorem</i>	Five per cent.
	All other sorts of drugs, medicines, and narcotics, except opium (for which see Schedule III) . . . .	...	"	"

<sup>1</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 254.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Chemicals, Drugs, Medicines, and Narcotics, and Dyeing and Tanning Materials— <i>concl.</i>		Rs. A.	
12	DYEING AND TANNING MATERIALS—			
	Alizarine dye, dry 40 per cent. .	lb	1 7	Five per cent.
	" " " 50 " .	"	1 10	"
	" " " 60 " .	"	1 15	"
	" " " 70 " .	"	2 2	"
	" " " 80 " .	"	2 8	"
	" " " 100 " .	"	2 12	"
	" " liquid, 10 " .	"	0 5	"
	" " " 16 " .	"	0 8	"
	" " " 20 " .	"	0 10	"
	Aniline " indigo blue .	"	0 9 <sup>1</sup>	"
	" " dry . . . . .	"	1 8	"
	Avar bark . . . . .	cwt.	4 8 <sup>1</sup>	"
	Buzgund (gulpista) . . . . .	"	27 0 <sup>1</sup>	"
	Cochineal . . . . .	lb	1 2	"
	Gallnuts (myrabolams) . . . . .	cwt.	4 0 <sup>1</sup>	"
	" Persian . . . . .	"	35 0	"
	Madder or Manjit . . . . .	"	7 0 <sup>1</sup>	"
	Orechilla weed . . . . .	"	5 0 <sup>1</sup>	"
	Suppan wood and root . . . . .	"	5 8	"
	All other sorts of dyeing and tanning materials . . . . .	...	<i>ad valorem</i>	"
	<b>Metals and Manufactures of Metals.</b>			
13	<sup>2</sup> HARDWARE AND CUTLERY, including ironmongery and plated-ware, and also including machines, tools, and implements to be worked by manual or animal labour, except water-lifts, sugar-mills, oil-presses, and parts thereof, and any other machines and parts of machines ordinarily used in processes of husbandry, or for the preparation for use or for sale of the products of husbandry which the Governor General in Council may, by notification in the Gazette of India, exempt, all of which are free . . . . .	...	<i>ad valorem</i>	"

<sup>1</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 254.<sup>2</sup> For notification reducing the duty on lever-boxes not imported for a railway under Art. 93, see Gazette of India, 1898, Pt. I, p. 49.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles	Per	Tariff Valuation	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		Rs. A.	
11	MACHINERY, namely, prime-movers, and component parts thereof, including boilers and component parts thereof; also including locomotive and portable engines, steam-rollers, fire-engines and other machines in which the prime-mover is not separable from the operative parts . . . . .			
	„ (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire, or other power not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts; and which are intended for—			
	(a) the preparing, ginning, pressing, spinning, weaving, sewing, knitting, bleaching, and dyeing of <sup>1</sup> cotton, jute, hemp, silk, wool, or other fibres, and any other process intervening between the raw material and the finished product as packed ready for the market;	...	...	Free.
	(b) the smelting and milling of iron and other metallic ores and the manufacture of iron, steel, and other metals;			
	(c) the manufacture of leather, sugar, indigo, silk, paper, soap, gas, oil, flour, cordage, rope, and twine;			
	(d) the milling of rice;			
	(e) the manufacture of tea <sup>2</sup> in all its stages, from the drying of the leaf to its packing for the market inclusive;			

<sup>1</sup> For notification exempting certain articles used in the manufacture of cotton from duty under the Act, see Gazette of India, 1898, Pt. I, p. 98.

<sup>2</sup> Barks for withering tea have been exempted from duty leviable under the Act, see Gazette of India, 1898 Pt. I, p. 485.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No	Names of Articles	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>		Rs. A.	
14	<sup>1</sup> MACHINERY (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire, or other power not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts; and which are intended for—( <i>contd.</i> ).			
	(f) the pulping of coffee;			
	(g) printing presses;			
	(h) foundries and workshops of iron and other metals;			
	(i) railway workshops;			
	(j) the refining of petroleum, and the manufacture of vegetable oils;	...	...	Free.
	(k) the crushing of bones and bricks;			
	(l) the manufacture of lac;			
	(m) potteries;			
	(n) saw-mills;			
	(o) agriculture, mining, navigation, dredging and pumping;			
	(p) such other manufactures and industries as the Governor General in Council may from time to time specify;			

<sup>1</sup> Machinery (and the component parts thereof) for the generation of electricity has been exempted from duty under the Act, see Gazette of India, 1896, Pt. I, p. 844.

Machinery (and the component parts thereof) for the manufacture of tiles and bricks has been exempted from duty under the Act, see Gazette of India, 1897, Pt. I, p. 66.

Machinery (and component parts thereof) for the manufacture of articles made of leather and the manufacture of matches has been exempted from duty under the Act, see Gazette of India, 1897, Pt. I, p. 730.

Machinery (and the component parts thereof) for the treatment of tobacco has been exempted from duty under the Act, see Gazette of India, 1897, Pt. I, p. 1153.

Machinery (and the component parts thereof) for the manufacture of paraffin candles has been exempted from duty under the Act, see Gazette of India, 1898, Pt. I, p. 375.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No	Names of Articles,	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>  Provided that the term does not include tools and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the working of the machinery and are, owing to their shape or to other special quality, not adapted for any other purpose. <i>Note.</i> —Machinery and component parts thereof made of substances other than metal are included in this entry. MACHINERY and component parts thereof not included in the foregoing exemptions.	...	<i>ad valorem</i>	Five per cent.
15	<b>METALS, unwrought and wrought, and articles made of metals—</b> Brass, beads, ghungri, china . . . „ foil or dankpana, white 10½ in. × 4½ in. „ foil or dankpana, coloured, 10½ in. × 4½ in. . . . „ Old . . . . „ Sheets, flat or in rolls, very thin. „ wire . . . . „ all other sorts . . . . Copper, * * * * „ bolt . . . . „ brazier's and sheets . . . . „ China cash . . . . * * * * „ nails and composition nails . . . . „ old . . . . „ pigs and slabs . . . . „ sheathing, plate, and raised bottoms. „ tiles, ingots, cakes, and bricks . . . . „ China white copperware . . . . „ foil or dankpana, white, 10½ in. × 4½ in.	thousand  hundred leaves.  „ cwt. „ lb „ * cwt. „ „ * cwt. „ „ „ „ „ lb hundred leaves.	Rs. A. 0 12 1 4 <sup>1</sup> 1 12 <sup>1</sup> 26 0 100 0 0 7 <i>ad valorem</i> * 50 0 45 0 30 0 * 50 0 33 0 38 0 48 0 <sup>1</sup> 40 0 1 2 2 6 <sup>1</sup>	„ „ „ „ „ „ „ * 2 „ „ „ „ „ „ „ „ „

<sup>1</sup> For revised valuation, see Gazette of India, 1893, Pt. I, p. 254.<sup>2</sup> The entries relating to Copper, Australian and Japan, were eliminated by Notification No. 4899 S. R., dated 20th November, 1898, see Gazette of India, 1898, Pt. I, p. 828.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per.	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>			
15	<b>METALS, unwrought and wrought, and articles made of metals—<i>contd.</i></b>			
	Copper, foil or tankpana, coloured, 10 $\frac{1}{2}$ in. $\times$ 4 $\frac{1}{2}$ in.	hundred leaves.	Rs. A. 3 3 <sup>1</sup>	Five per cent.
	" wire, including wire of phosphor-bronze . . .	lb	0 9 <sup>1</sup>	"
	" all other sorts, unmanufactured and manufactured, except current coin of the Government of India, which is free . . .	...	<i>ad valorem</i>	"
	Gold bullion and coin . . .	...	...	Free.
	Gold leaf, European . . .	hundred leaves.	3 4 <sup>1</sup>	Five per cent.
	Iron, anchors and cables . . .	...	<i>ad valorem</i>	One per cent.
	" angle, T. and channel . . .	ton	110 0 <sup>1</sup>	"
	" angle and T. (if galvanised) . . .	"	160 0 <sup>1</sup>	"
	" " (if tinued) . . .	...	<i>ad valorem</i>	"
	" bar, plate and sheet, Lowmoor . . .	ton	310 0 <sup>1</sup>	"
	" bar, of any kind not specified in this number . . .	...	<i>ad valorem</i>	"
	" beams, joists, pillars, girders, bridge-work, and other descriptions of iron imported exclusively for building purposes . . .	...	"	"
	" flat, square, and bolt, including Scotch . . .	ton	94 0 <sup>2</sup>	"
	" flat, square, and bolt, including Scotch (if galvanised) . . .	"	150 0	"
	" flat, square, and bolt, including Scotch (if tinued) . . .	...	<i>ad valorem</i>	"
	" hoop, plate, and sheet, other than Swedish . . .	ton	122 0	"
	" nails, rose, wire, and flatheaded . . .	cwt.	10 0 <sup>1</sup>	"
	" nails, clasp . . .	"	17 0	"
	" nails, other sorts, including galvanised . . .	...	<i>ad valorem</i>	"
	" nail-rod . . .	ton	104 0	"
	" nuts and bolts . . .	...	<i>ad valorem</i>	"
	" old . . .	cwt.	2 8	"

<sup>1</sup> For revised valuation, see Gazette of India, 1898, Pt. I . 54.<sup>2</sup> For revised valuation, see Gazette of India, 1897, Pt. I p. 275.<sup>3</sup> For notification fixing duty on galvanised hoop iron, see Gazette of India, 1897, Pt. I, p. 121.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per.	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>			
15	METALS, unwrought and wrought, and articles made of metals— <i>contd.</i>		Rs. A.	
	Iron pig . . . . .	ton	60 0 <sup>1</sup>	One per cent.
	„ pipes and tubes, including fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like . . . . .	...	<i>ad valorem</i>	„
	„ plate (if galvanised) . . . . .	ton	200 0	„
	„ plates, tinned . . . . .	...	<i>ad valorem</i>	„
	„ rails, chairs, and fishplates other than those described in No. 93, also spikes (commonly known as dogspikes) . . . . .	...	„	„
	„ rice bowls . . . . .	set of ten	6 0 <sup>3</sup>	„
	„ „ „ . . . . .	set of six	3 0 <sup>3</sup>	„
	„ „ „ not in sets . . . . .	...	<i>ad valorem</i>	„
	„ rivets and washers . . . . .	cwt.	10 0	„
	„ „ „ (if galvanised) . . . . .	„	15 0	„
	„ rivets and washers (if tinned) . . . . .	...	<i>ad valorem</i>	„
	„ rod, round, other than Swedish, under half an inch in diameter . . . . .	ton	105 0	„
	„ sheets and ridging, galvanised . . . . .	cwt.	10 0 <sup>1</sup>	„
	„ sheets and ridging, tinned . . . . .	...	<i>ad valorem</i>	„
	„ Swedish, flat, square, and bolt . . . . .	ton	142 0 <sup>1</sup>	„
	„ Swedish nail-rod . . . . .	„	142 0 <sup>3</sup>	„
	„ „ round rod, under half an inch in diameter . . . . .	„	160 0 <sup>1</sup>	„
	„ wire, including fencing wire and wire-rope, but excluding wire-netting . . . . .	...	<i>ad valorem</i>	„
	„ all other sorts, including wire-netting . . . . .	...	„	Five per cent.
	Lametta . . . . .	...	„	„
	Lead, ore, galena . . . . .	cwt.	12 0	„
	„ pig . . . . .	„	10 0	„
	„ pipes . . . . .	...	<i>ad valorem</i>	„
	„ sheets . . . . .	cwt.	12 0	„
	„ „ for tea-chests . . . . .	...	„	Free.
	Orsidue and brass leaves, European . . . . .	lb	1 0 <sup>1</sup>	Five per cent.

<sup>1</sup> For revised valuation, see Gazette of India, 1893, Pt. I, p. 254.<sup>2</sup> For notification reducing the duty leviable on scorpers of iron and steel other than those mentioned in Article 93, see Gazette of India, 1897, Pt. I, p. 280.<sup>3</sup> For revised valuation, see Gazette of India, 1897, Pt. I, p. 276.



## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>contd.</i></b>			
15	METALS, unwrought and wrought, and articles made of metals— <i>contd.</i>		Rs. A.	
	Orsidue and brass leaves, China . . .	lb	0 12	Five per cent.
	Patent or yellow metal, sheathing sheets, and bolts . . .	cwt.	40 0	"
	Patent or yellow metal, sheathing sheets, and bolts, old . . .	"	27 0	"
	Quicksilver . . .	lb	1 8	"
	Shot, bird . . .	cwt.	16 0	"
	Silver bullion or coin, except current coin of the Government of India, which is free . . .	...	<i>ad valorem</i>	"
	Steel, angle, channel and spring . . .	...	"	One per cent.
	" bar and blooms . . .	...	"	"
	" basic, all sorts (other than galvanised or tinned basic steel sheets) . . .	ton	100 0 <sup>1</sup>	"
	" basic, sheets (if galvanised) . . .	"	210 0	"
	" " (if tinned) . . .	...	<i>ad valorem</i>	"
	" beams, joists, pillars, girders, bridgeworks, and other descriptions of steel imported exclusively for building purposes . . .	...	"	"
	" cast and blistered of any kind not specified in this No. . .	...	"	"
	" hoops . . .	ton	145 0	"
	" nails . . .	...	<i>ad valorem</i>	"
	" nuts and bolts and nail-rods . . .	...	"	"
	" old . . .	ton	60 0 <sup>1</sup>	"
	" pipes and tubes . . .	...	<i>ad valorem</i>	"
	" plates and sheets . . .	ton	130 0	"
	" " " other than basic (if galvanised) . . .	"	220 0 <sup>1</sup>	"
	" plates and sheets, other than basic (if tinned) . . .	...	<i>ad valorem</i>	"
	" rails, chairs, and fish-plates other than those described in No. 93, also spikes (commonly known as dogspikes) . . .	...	"	"
	" rivets and washers . . .	ton	220 0 <sup>1</sup>	"
	" " (if galvanised) . . .	"	320 0 <sup>1</sup>	"
	" " (if tinned) . . .	...	<i>ad valorem</i>	"
	" T-bars . . .	ton	105 0 <sup>1</sup>	"

<sup>1</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 254.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Metals and Manufactures of Metals—<i>conold.</i></b>			
15	<b>METALS, unwrought and wrought, and articles made of metals—<i>conold.</i></b>		Rs. A.	
	Steel T-bars (if galvanised) . . .	ton	180 0	One per cent.
	„ „ (if tinned) . . .	...	<i>ad valorem</i>	„
	„ wire, excluding wire-netting . . .	...	„	„
	„ wire-rope . . .	...	„	„
	„ all other sorts, including wire-netting . . .	...	„	Five per cent.
	Tin, block . . .	cwt.	72 0 <sup>1</sup>	„
	„ foil, China . . .	lb	0 12	„
	„ other sorts . . .	...	<i>ad valorem</i>	„
	Zinc or spelter, nails . . .	cwt.	20 0	„
	„ „ plates and other shapes, soft . . .	„	18 0	„
	„ „ plates and other shapes, hard . . .	„	13 0	„
	„ „ sheet or sheathing . . .	„	19 0	„
	„ „ all other sorts . . .	...	<i>ad valorem</i>	„
	All other sorts of metals . . .	...	„	„
	<b>Oils.</b>			
16	<b>OILS—</b>			
	Cajeputi . . .	quart	1 4 <sup>1</sup>	„
	Cassia . . .	lb	2 8 <sup>1</sup>	„
	Cocoanut . . .	cwt.	16 0	„
	Earthnut . . .	„	16 0 <sup>1</sup>	„
	Grass . . .	lb	1 12 <sup>1</sup>	„
	Jinjili or til . . .	cwt.	16 0	„
	Linseed, European . . .	Imperial gallon.	2 0	„
	Otto of sorts . . .	ounce	15 0	„
	Petroleum, including also naphtha and the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosine, paraffin oil, mineral oil, petoline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat, or any other bituminous . . .			

<sup>1</sup> For revised valuation, see Gazette of India, 1893, Pt. I, p. 254.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Oils—<i>contd.</i></b>			
	ous substance, or from any products of petroleum . . .	Imperial gallon.]	Rs. A. ...	One anna.
1	Petroleum which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-Collector to be intended for use exclusively for the batching of jute or other fibre or for lubricating purposes . . .	...	<i>ad valorem</i>	Five per cent.
	Sandalwood . . .	...	7 0 <sup>2</sup>	"
	Whale (except spermaceti), and fish . . .	cwt.	15 0	"
	Wood . . .	"	25 0	"
	All other sorts of oil, including paraffin wax . . .	...	<i>ad valorem</i>	"
	<b>Other Articles, unmanufactured and manufactured.</b>			
17	AMBER, AND ARTICLES MADE OF AMBER, including imitation amber . . .	...	"	"
18	APPAREL, including drapery, haberdashery, and millinery, and military and other uniforms and accoutrements; but excluding cotton-hosiery (for which see No. 44) and boots and shoes (for which see No. 70), and excluding also uniforms and accoutrements appertaining thereto, imported by a public servant for his personal use, which are free . . .	...	"	"
19	ART, WORKS OF, except statuary and pictures intended to be put up in a public place, which are free . . .	...	"	"
20	ASBESTOS, AND ARTICLES MADE OF ASBESTOS not otherwise described . . .	...	"	"
21	BAGS, CASES, BOXES, and other packages, empty, of all kinds . . .	...	"	"

<sup>1</sup> Petroleum which has its flashing point above 200° F. and is intended for use as fuel has been exempted from customs duty in excess of 5 per cent. *ad valorem*, see Gazette of India, 1907, Pt. I, p. 1150.

<sup>2</sup> For revised valuation, see Gazette of India, 1908, Pt. I, p. 254.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		Rs. A.	
22	BAMBOOS, common grass, hay, rushes, straw, and leaves . . . . .	...	...	Free.
23	BEADS, of all materials except glass, for which see No. 58, and brass, for which see No. 15—			
	Beads, China, Ankdana . . . . .	133½ lb	35 0 <sup>1</sup>	Five per cent.
	Beads, China, Dagri . . . . .	"	30 0 <sup>1</sup>	"
	" " Gadgadiah . . . . .	"	24 0	"
	" " Kamrakhi . . . . .	"	32 0 <sup>1</sup>	"
	" " Lalri . . . . .	"	44 0 <sup>1</sup>	"
	" " Naksi . . . . .	"	38 0	"
	" " Pakhvājāji . . . . .	"	30 0 <sup>1</sup>	"
	" " Sulemani . . . . .	"	34 0 <sup>1</sup>	"
	All other sorts . . . . .	...	<i>ad valorem</i>	"
24	BELTING of cotton, leather, or other material, for driving machinery . . . . .	...	...	Free.
25	BONE, INCLUDING WHALEBONE, articles made of . . . . .	...	<i>ad valorem</i>	Five per cent.
26	BOOKS, printed, including covers for printed books, maps, charts, and plants, proofs, music, and manuscripts . . . . .	...	...	Free.
27	BRISTLES AND FIBRE, for brushes and brooms . . . . .	"	...	"
28	BRUSHES AND BROOMS, all sorts . . . . .	...	<i>ad valorem</i>	Five per cent.
29	BUILDING AND ENGINEERING MATERIALS, namely, asphalt, bricks and tiles, cement of all kinds, fire-clay, earthenware piping, lime, and other kinds not otherwise described . . . . .	...	"	"
30	CABINET-WARE AND FURNITURE . . . . .	...	"	"
31	CANDLES, Paraffin . . . . .	lb	0 6	"
	" spermaceti . . . . .	"	0 7	"
	" wax . . . . .	"	1 0	"
	All other sorts . . . . .	...	<i>ad valorem</i>	"

<sup>1</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 255.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured— <i>contd.</i>		Rs. A.	
32	CANES AND RATTANS, ARTICLES MADE OF CANE OR RATTAN. AND BASKET WORK—			
	Canes, Malacca . . . . .	dozen	5 0 <sup>1</sup>	Five
	Rattans . . . . .	cwt.	10 0	per cent.
	All other sorts . . . . .	...	<i>ad valorem</i>	"
33	CARRIAGES AND CARTS, including bicycles, tricycles, jinrikshas, Bath chairs, perambulators, trucks, wheel-barrows, and all other sorts of conveyances, and component parts thereof . . . . .	...	"	"
34	CASES (EMPTY) for spectacles, opera glasses, jewellery, and other articles . . . . .	...	"	"
35	CELLULOID, ARTICLES MADE OF, not otherwise described . . . . .	...	"	"
36	CHALK, common . . . . .	...	"	"
	" French, knife and plate powder, Bath bricks, emery powder, and whiting . . . . .	...	"	"
37	CHINESE AND JAPANESE WARE, including lacquered ware, but excluding earthenware, china, and porcelain (for which see No. 47) . . . . .	...	"	"
38	CLOCKS, WATCHES, and other time-keepers, and parts thereof . . . . .	...	"	"
39	COAL, COKE, AND PATENT FUEL . . . . .	...	...	Free.
40	COIR, AND ARTICLES MADE OF COIR, EXCEPT CABLE AND ROPE (for which see No. 42)—			
	Yarn of all kinds . . . . .	cwt.	9 0 <sup>1</sup>	Five
	All other sorts . . . . .	...	<i>ad valorem</i>	per cent.
41	CORAL, real . . . . .	...	"	"

<sup>1</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 255.

## (Schedule IV.—Import Tariff)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		Rs. A.	
42	CORDAGE, ROPE, and TWINE made of any vegetable fibre—			
	Coir, cables, tarred . . . . .	cwt.	17 0	Five per cent.
	„ rope . . . . .	„	10 0	„
	Cordage, hemp, European . . . . .	„	25 0	„
	„ „ Manila . . . . .	„	28 0	„
	Twine, sail, European . . . . .	lb	0 9 <sup>1</sup>	„
	All other sorts of cordage, rope, and twine . . . . .	...	<i>ad valorem</i>	„
43	CORK, AND ARTICLES MADE OF CORK—			
	Bottle corks . . . . .	GROSS	1 8	„
	Vial corks . . . . .	„	0 8	„
	All other sorts . . . . .	...	<i>ad valorem</i>	„
44	COTTON, AND ARTICLES MADE OF COTTON—			
	„ RAW . . . . .	...	...	Free.
	„ twist and yarn . . . . .	...	...	„
	„ Sewing thread . . . . .	...	...	„
	„ Piece-goods, hosiery, and all other manufactured cotton goods not otherwise described . . . . .	...	<i>ad valorem</i>	Three and one-half per cent.
45	DISINFECTING AND DEODORISING FLUID AND POWDER . . . . .	...	„	Five per cent
46	EARTH, COMMON CLAY, AND SAND . . . . .	...	...	Free.
47	EARTHENWARE (except earthenware piping, for which see No. 29), china, china clay, porcelain, and imitation or false coral . . . . .	...	<i>ad valorem</i>	Five per cent.
48	EGGS, ostrich and other, not mounted . . . . .	...	„	„
49	EMERY PAPER AND CLOTH, AND SAND-PAPER . . . . .	...	„	„
50	FANS OF ALL KINDS, except common palm-leaf fans, which are free . . . . .	...	„	„
51	FEATHERS, including bird-skins . . . . .	...	„	„
52	FIREWORKS, all sorts, including fulminating-powder . . . . .	...	„	„

<sup>1</sup> As to revised valuation, see Gazette of India, 1898, Pt. I, p. 1022.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No	Name of Articles	Per	Tariff Valuation	Duty.
	Other Articles, unmanufactured and manufactured— <i>contd.</i>		Rs. A.	
53	FLAX, AND ARTICLES MADE OF FLAX, in- cluding linen thread . . . . .	...	<i>ad valorem</i>	Five per cent.
54	FLOWERS, ARTIFICIAL, not otherwise de- scribed . . . . .	...	"	"
55	FURNITURE, TACKLE, AND APPAREL not otherwise described, for steam, sailing, rowing and other vessels . . . . .	...	"	"
56	FUR, AND ARTICLES MADE OF FUR, not otherwise described . . . . .	...	"	"
57	GELATINE . . . . .	...	"	"
58	GLASS, GLASS-WARE, AND FALSE PEARLS—			
	Glass, China, all colours . . . . .	133½lb	32 0 <sup>1</sup>	"
	" crown, coloured . . . . .	100 superficial feet.	15 0 <sup>1</sup>	"
	" " of sizes . . . . .	"	6 0 <sup>1</sup>	"
	Pearls, false, bājria . . . . .	lakh	3 0	"
	" " boria . . . . .	thousand	0 10	"
	" " jauria . . . . .	lakh	6 0	"
	" " lolakh . . . . .	thousand	0 8	"
	" " nathia . . . . .	"	0 3	"
	" " táchia . . . . .	"	0 8	"
	" " wattanah . . . . .	lakh	10 0	"
	All other sorts of glass and manufac- tures of glass, including false pearls and glass beads . . . . .	...	<i>ad valorem</i>	"
59	GUMS, GUM-RESINS, and articles made of gum or gum-resin—			
	Copal . . . . .	cwt.	70 0	"
	Cutch and gambier . . . . .	"	20 0 <sup>1</sup>	"
	Gamboge . . . . .	lb	1 4	"
	Gum Ammoniac . . . . .	"	15 0	"
	" Arabic . . . . .	"	18 0 <sup>1</sup>	"
	" Bdellium (common gum) . . . . .	"	8 0	"
	" Benjamin . . . . .	"	40 0	"
	" Bysabol (coarse myrrh) . . . . .	"	16 0 <sup>1</sup>	"
	" Olibanum or frankincense . . . . .	"	11 0	"

<sup>1</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 255.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		Rs. A.	
	<b>GUMS, GUM-RESINS, and articles made of gum or gum-resins—</b>			
	Gum Persian (false) . . . . .	cwt.	11 0 <sup>1</sup>	Five per cent.
	„ Kino . . . . .	„	10 0	„
	Myrrh . . . . .	„	33 0	„
	Rosin . . . . .	„	6 0 <sup>1</sup>	„
	All other sorts of gums, gum-resins, and articles made of gum or gum-resin, including caoutchouc and gutta-percha . . . . .	...	<i>ad valorem</i>	„
60	HAIR of all kinds, and articles made of hair . . . . .	...	„	„
61	HEMP, including Manila hemp, and articles made therefrom (except cordage, rope, and twine, for which see No. 42) . . . . .	...	„	„
62	HIDES AND SKINS (except raw or salted hides and skins, which are free)—			
	Hides, border . . . . .	each	33 0	„
	„ buffalo . . . . .	score	70 0	„
	„ cow . . . . .	„	60 0	„
	Skins, including parchment and vellum, goldbeater's skins, and all other descriptions of hides or skins . . . . .	...	<i>ad valorem</i>	„
63	HORN . . . . .	...	...	Free.
	„ articles made of, not otherwise described . . . . .	...	<i>ad valorem</i>	Five per cent.
64	INSTRUMENTS, APPARATUS, AND APPLIANCES, and parts thereof—			
	Computing, Dental, Distilling, Diving, Drawing, Educational, Electric, Electric lighting, Galvanic, Measuring, Musical, Optical, Philosophical, Phonographic, Photographic (including materials for Photography), Scientific, Surgical, Surveying, Telegraphic, Telephonic, Typewriters, and all other sorts, except Telegraphic instruments and apparatus when imported by or under the orders of a railway company, which are free . . . . .	...	„	„

<sup>1</sup> For revised valuation, see Gazette of India, 1899, Pt. I, p. 255.



## (Schedule IV.—Import Tariff)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	Other Articles, unmanufactured and manufactured— <i>contd.</i>		Rs. A.	
45	IVORY AND IVORY-WARE—			
	Unmanufactured—			
	Elephants' grinders . . . . .	cwt.	350 0	Five per cent.
	Elephants' tusks (other than hollows, centres and points) each exceeding 20lb in weight, and hollows, centres and points each weighing 10lb and over . . . . .	"	800 0 <sup>1</sup>	"
	Elephants' tusks (other than hollows, centres and points) not less than 10lb and not exceeding 20lb each, and hollows, centres and points each weighing less than 10lb . . . . .	"	680 0 <sup>1</sup>	"
	Elephants' tusks, each less than 10lb (other than hollows, centres and points) . . . . .	"	525 0 <sup>1</sup>	"
	Sea-cow or moye teeth, each not less than 4lb . . . . .	"	200 0	"
	Sea-cow or moye teeth, each not less than 3lb and under 4lb . . . . .	"	185 0	"
	Sea-cow or moye teeth, each less than 3lb . . . . .	"	135 0	"
	All other sorts, manufactured and unmanufactured . . . . .	...	<i>ad valorem</i>	"
66	JET, ARTICLES MADE OF . . . . .	...	"	"
67	JEWELLERY AND JEWELS, including plate and other manufactures of gold and silver—			
	Silverware, plain } other {	tola	1 0	"
	" embossed } than {	"	1 4	"
	" or chased } European {	"		"
	All other sorts, except precious stones and pearls, unset, which are free . . . . .	...	<i>ad valorem</i>	"
68	JUTE, raw . . . . .	...	...	Free.
	" articles made of, except second hand or used gunny bags, which are free . . . . .	...	<i>ad valorem</i>	Five per cent.
69	LAC, all sorts, and articles made of lac . . . . .	...	...	"

<sup>1</sup> For revised valuation, see Gazette of India, 1899, Pt. I, p. 255.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Pet	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		Rs. A.	
70	<sup>1</sup> LEATHER, and articles made of leather, including boots and shoes, harness and saddlery . . . . .	...	<i>ad valorem</i>	Five per cent.
71	MANURES of all kinds, including animal bones . . . . .	...	...	Free.
72	MARINE AND NAVAL STORES, not otherwise described . . . . .	...	<i>ad valorem</i>	Five per cent.
73	MATCHES, all sorts . . . . .	...	"	"
74	MATS AND MATTING— Floor-matting, China and Singapore, of all sorts . . . . . All other sorts, except coir-matting (for which see No. 40) . . . . .	hundred; ...	60 0 <i>ad valorem</i>	" "
75	MICA AND TALC, and articles made therefrom . . . . .	...	"	"
76	MINERALS NOT OTHERWISE DESCRIBED . . . . .	...	"	"
77	MODELS OF ALL DESCRIPTIONS . . . . .	...	"	"
78	MOULDERS' BLACKING AND SAND . . . . .	...	"	"
79	OILCAKE, also bran, fodder, and cattle-food of all kinds . . . . .	...	...	Free.
80	OIL-CLOTH AND FLOOR-CLOTH, including lincrusta, linoleum, and tarpaulins . . . . .	...	<i>ad valorem</i>	Five per cent.
81	PAINTS, COLOURS, PAINTERS' MATERIALS, and compositions for application to leather, wood, and metals—  Ochre, other than European, all colours . . . . . Paints, composition . . . . . " patent driers . . . . . Prussian blue, China . . . . . " " European . . . . .	cwt. " " lb "	1 8 <sup>2</sup> 65 0 10 0 0 8 1 0	" " " " "

<sup>1</sup> For notification exempting saddlery of a military pattern imported by an officer of Her Majesty's Regular forces and forming part of the equipment he is required to possess, from duty under the Act, see Gazette of India, 1898, Pt. I, p. 101.

<sup>2</sup> For revised valuation, see Gazette of India, 1908, Pt. I, p. 255.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles	Per	Tariff Valuation	Duty.
	Other Articles, unmanufactured and manufactured— <i>contd.</i>		Rs. A.	
	PAINTS, COLOURS, PAINTERS' MATERIALS, and compositions for application to leather, wood and metals—( <i>contd.</i> )			Five per cent.
	Red lead . . . . .	cwt.	14 0	"
	Turpentine . . . . .	Imperial gallon.	2 0	"
	Verdigris . . . . .	cwt.	70 0	"
	Vermilion, Canton . . . . .	box of 90 bundles	95 0	"
	White lead . . . . .	cwt.	16 0	"
	White zinc . . . . .	"	25 0	"
	All other sorts, including glue and putty	...	<i>ad valorem</i>	"
82	PAPER, PASTEBOARD, MILLBOARD, and CARDBOARD of all kinds, including ruled or printed forms and account and manu- script books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter, and other cards, including cards in booklet form, in- cluding also waste paper and old newspapers for packing . . . . .	...	"	"
	PAPER, articles made of paper and papier- mâché . . . . .	...	"	"
83	PERFUMERY—			
	Gowla, husked and unhusked . . . . .	cwt.	35 0 <sup>1</sup>	"
	Kapurkachri (zedoary, China) . . . . .	"	9 8 <sup>1</sup>	"
	Patch leaves (patchouli) . . . . .	"	9 8 <sup>1</sup>	"
	Rose-flowers, dried . . . . .	"	16 0	"
	Rose-water . . . . .	Imperial gallon	2 0	"
	All other sorts, except perfumed spirit (for which see Schedule III) . . . . .	...	<i>ad valorem</i>	"
84	PIPES and other implements used in the consumption of tobacco and other narco- tics . . . . .	...	"	"
85	PITCH, TAR AND DAMMER—			
	Bitumen . . . . .	...	"	"
	Dammer . . . . .	cwt.	5 8 <sup>1</sup>	"
	Pitch, American and European . . . . .	"	7 0	"
	„, coal . . . . .	"	2 8 <sup>1</sup>	"

<sup>1</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 255.

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles.	Per	Tariff Valuation.	Duty.
	<b>Other Articles, unmanufactured and manufactured—<i>contd.</i></b>		Rs. A.	
	<b>PITCH, TAR AND DAMMER—(<i>contd.</i>)</b>			
	Tar, American and European . . .	cwt.	6 0	Five per cent.
	„ coal . . . . .	„	3 0 <sup>1</sup>	„
86	„ mineral . . . . .	...	<i>ad valorem</i>	„
	PLANTS AND BULBS, living, also dried for herbaria . . . . .	...	..	Free.
87	PLASTER OF PARIS, and articles made of plaster of Paris, not otherwise described .	...	<i>ad valorem</i>	Five per cent.
88	PLUMBAGO, and articles made of plumbago . . . . .	...	„	„
89	PRECIOUS STONES AND PEARLS, unset .	...	...	Free.
90	PULP of wood, straw, rags, paper, and other materials . . . . .	...	...	„
91	PRINTING AND LITHOGRAPHING MATERIAL, namely, presses, type, ink, brass rules, composing sticks, chases, imposing tables, and lithographic stones, but not including paper . . . . .	...	...	„
92	RAGS . . . . .	...	...	„
93	RAILWAY MATERIAL for permanent-way and rolling-stock, namely, cylinders, girders and other material for bridges, rails, sleepers, bearing and fish-plates, fish-bolts, chairs, spikes, crossings, sleeper fastenings, switches, interlocking apparatus, brake gear, couplings and springs, signals, turn-tables, weigh-bridges, engines, tenders, carriages, waggons, traversers, trolleys, trucks, and component parts thereof; also cranes and water cranes and standards, wire and other material for fencing, when imported by or under the orders of a railway company: Provided that for the purpose of this exemption "railway" means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes			

<sup>1</sup> For revised valuation, see Gazette of India, 1899, Pt. I, p. 265.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No.	Names of Articles,	Per	Tariff Valuation,	Duty.
	Other Articles, unmanufactured and manufactured— <i>contd.</i>		Rs. A.	
	RAILWAY MATERIAL— <i>contd.</i> a railway constructed in a Native State under the suzerainty of Her Majesty, and also such tramways as the Governor-General in Council may, by notification in the Gazette of India, specifically include therein <sup>1</sup> . . . . .	...	...	Free.
94	SEEDS—			
	Castor . . . . .	cwt.	5 0 <sup>2</sup>	Five per cent.
	Gunmin . . . . .	"	24 0 <sup>2</sup>	"
	" black . . . . .	"	24 0 <sup>2</sup>	"
	Linseed . . . . .	"	7 8 <sup>2</sup>	"
	Methi . . . . .	"	4 8 <sup>2</sup>	"
	Mustard, rape or sarson . . . . .	"	6 0 <sup>2</sup>	"
	P'oppy . . . . .	"	8 8 <sup>2</sup>	"
	Quince, bilhidana . . . . .	"	60 0 <sup>2</sup>	"
	Sozira . . . . .	"	24 0 <sup>2</sup>	"
	Til or jinjili . . . . .	"	7 0	"
	All other sorts . . . . .	...	<i>ad valorem</i>	"
95	SHELLS AND COWRIES—			
	Chanks—large shells, for cameos . . . . .	hundred	7 0	"
	" white, live . . . . .	"	8 0	"
	" " dead . . . . .	"	4 0	"
	Cowras . . . . .	"	0 10	"
	Cowries, bazar, common . . . . .	cwt.	3 8 <sup>2</sup>	"
	" Maldiva . . . . .	"	8 0 <sup>2</sup>	"
	" saukhla . . . . .	"	70 0	"
	" yellow, superior quality . . . . .	"	4 0 <sup>2</sup>	"
	Mother-of-pearl, nacre . . . . .	"	45 0	"
	Nakhla . . . . .	"	60 0	"
	Tortoise-shell . . . . .	lb	10 0 <sup>2</sup>	"
	" nakh . . . . .	"	4 0 <sup>2</sup>	"
	All other sorts, including articles made of shell, not otherwise described . . . . .	...	<i>ad valorem</i>	"
96	SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers, steam-launches, boats, and barges, imported entire or in sections . . . . .	...	...	Free.

<sup>1</sup> For notification issued under this power in respect of certain steam-tramways, see Gazette of India, 1896, Pt. I, p. 454, and *ibid.*, 1898, Pt. I, p. 177.<sup>2</sup> For revised valuation, see Gazette of India, 1898, Pt. I, p. 255.

## (Schedule IV.—Import Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*contd.*GENERAL DUTIES—*contd.*

No	Names of Articles.	Per	Tariff Valuation	Duty.
	Other Articles, unmanufactured and manufactured— <i>contd.</i>		Rs A.	
97	SILK, AND ARTICLES MADE OF SILK — Floss . . . . .	lb	7 8 <sup>1</sup>	Five per cent.
	Piece-goods . . . . .	...	<i>ad valorem</i>	"
	Raw silk—			
	Cháharam, Cochin-China, and yellow			
	Shanghai . . . . .	lb	4 8	"
	Mathow . . . . .	"	3 4 <sup>1</sup>	"
	Other kinds of China . . . . .	"	6 8 <sup>1</sup>	"
	Waste and Kachra . . . . .	"	1 4	"
	Panjam . . . . .	"	2 0 <sup>1</sup>	"
	Persian . . . . .	"	5 0	"
	Siam . . . . .	"	3 0 <sup>1</sup>	"
	Produced from the tasar or other wild worm . . . . .	"	4 0 <sup>1</sup>	"
	Sewing thread, China . . . . .	"	9 0 <sup>1</sup>	"
	All other sorts, including cocoons . . . . .	...	<i>ad valorem</i>	"
98	SIZING for cotton, paper, or any other material . . . . .	...	"	"
99	SOAP . . . . .	...	"	"
100	SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE, including also antique coins and medals . . . . .	...	...	Free.
101	SPONGE AND SPONGES . . . . .	...	<i>ad valorem</i>	Five per cent.
102	STARCH . . . . .	...	"	"
103	STATIONERY, excluding paper (for which see No. 82) . . . . .	..	"	"
104	STONE AND MARBLE, and articles made of stone and marble . . . . .	...	"	"
105	STRAW PLATTING, and articles made of straw, not otherwise described . . . . .	...	"	"
106	TALLOW AND GREASE, including stearine . . . . .	cwt.	20 0	"
107	TEA-CHESTS of metal or wood, whether imported entire or in sections, provided that the Customs-Collector is satisfied that they are imported for the purpose of the packing of tea for transport in bulk . . . . .	..	...	Free.

(Schedule IV.—Import Tariff. Schedule V.—Export Tariff.)

SCHEDULE IV.—(IMPORT TARIFF)—*concl'd.*GENERAL DUTIES—*concl'd.*

No.	Names of Articles	Per	Tariff Valuation,	Duty.
	Other Articles, unmanufactured and manufactured— <i>concl'd.</i>		Rs. A.	
108	TEXTILE FABRICS not otherwise described	...	<i>ad valorem</i>	Five per cent.
109	TOILET REQUISITES not otherwise described . . . . .	...	"	"
110	TOYS, including toy-books, and requisites for all games . . . . .	...	"	"
111	UMBRELLAS, parasols, and sunshades of all kinds . . . . .	...	"	"
112	VULCANITE AND EBONITE, articles made of, not otherwise described . . . . .	...	"	"
113	WALKING STICKS and sticks for umbrellas, parasols, and sunshades, of all kinds, mounted and unmounted, driving, riding, and other whips, fishing rods and lines . . . . .	...	"	"
114	WAX, and articles made of wax, excluding candles (for which see No. 81) . . . . .	...	"	"
115	WOOD AND TIMBER (except fire-wood, which is free), and articles made of wood not otherwise described . . . . .	...	"	"
116	WOOL, raw . . . . .	...	...	Free.
	„ articles made of, including felt . . . . .	...	<i>ad valorem</i>	Five per cent.
117	ALL OTHER ARTICLES manufactured or unmanufactured, not described in this Schedule . . . . .	...	"	"

## 1 SCHEDULE V.—(EXPORT TARIFF).

Name of Article.	Rate of duty.
RICE, husked or unhusked, including RICE FLOUR, but not including RICE-BRAN and RICE-DUST, which are free.	Three annas per Indian maund of 82½ <sup>1</sup> / <sub>2</sub> avoirdupois weight.

This Schedule was substituted for the original Schedule by the Tariff Act (1894) Amendment Act, 1896 (III of 1896), printed, *in/ra*, p. 273.

## THE PRISONS ACT, 1894.

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  - 48. Award of punishments under sections 46 and 47.
  - 49. Punishments to be in accordance with foregoing sections.
  - 50. Medical Officer to certify to fitness of prisoner for punishment.
  - 51. Entries in punishment-book.
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## CHAPTER XII.

## MISCELLANEOUS.

- 55. Extramural custody, control and employment of prisoners.
- 56. Confinement in irons.
- 57. Confinement of prisoners under sentence of transportation in irons.
- 58. Prisoners not to be ironed by Jailer except under necessity.
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(Chap. I.—Preliminary. Secs. 1-2.)

## SECTIONS.

60. Power of Local Government to make rules.
61. Exhibition of copies of rules.
62. Exercise of powers of Superintendent and Medical Officer.

## THE SCHEDULE.

## ENACTMENTS REPEALED.

ACT No. IX OF 1894.<sup>1</sup>

[22nd March, 1894.]

## An Act to amend the law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in British India, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Prisons Act, 1894.
- (2) It extends to the whole of British India, inclusive of <sup>2</sup> \* \* \* British Baluchistan, the Santhál Parganas and the Pargana of Spiti; and
- (3) It shall come into force on the first day of July, 1894.
- (4) Nothing in this Act shall apply to civil jails in the Presidency of Bombay outside the city of Bombay, and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of Bombay Act II of 1874,<sup>3</sup> as amended by subsequent enactments.
- <sup>1</sup> 2. (1) On and after the said first day of July, 1894, the enactments mentioned in the schedule shall be repealed to the extent specified in the fourth column thereof.

Title, extent  
and com-  
mencement.

Repeal.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 14; for Report of the Select Committee, see *ibid.*, p. 63; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 10, 21, 93, 126 and 139.

The Act was declared in force in Upper Burma, by the Burma Laws Act, 1898 (XIII of 1898), Burma Code, Ed. 1899.

<sup>2</sup> The words "Upper Burma" were repealed by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule.

<sup>3</sup> Printed, Bombay Code, Vol. II, Ed. 1896, p. 185.

<sup>4</sup> So much of this section and of the Schedule, as relates to the Upper Burma Laws Act, 1886 (XX of 1886) has been repealed by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule.

*(Part I.—Preliminary. Sec. 3.)*

(2) But all rules and appointments made, directions given and orders issued under any of those enactments shall, so far as they are consistent with this Act, be deemed to have been respectively made, given and issued under this Act.

(3) Any enactment or document referring to any of those enactments shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

definitions.

3. In this Act—

(1) “prison” means any jail or place used permanently or temporarily under the general or special orders of a Local Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(a) any place for the confinement of prisoners who are exclusively in the custody of the police;

(b) any place specially appointed by the Local Government under section 541 of the Code of Criminal Procedure, 1882<sup>1</sup>; or

X of 1882.

(c) any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail;

(2) “criminal prisoner” means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial:

(3) “convicted criminal prisoner” means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1882,<sup>1</sup> or under the Prisoners Act, 1871<sup>2</sup>:

X of 1882.  
V of 1871.

(4) “civil prisoner” means any prisoner who is not a criminal prisoner:

(5) “remission system” means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails:

(6) “history-ticket” means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder:

(7) “Inspector General” means the Inspector General of Prisons:

(8) “Medical Subordinate” means an Assistant Surgeon, Apothecary or qualified Hospital Assistant: and

(9) “prohibited article” means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898). Printed, *infra*, p. 380.

<sup>2</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 195.

(Chap. II.—Maintenance and Officers of Prisons. Secs. 4-7. Chap. III.—  
Duties of Officers. Sec. 8.)

## CHAPTER II.

### MAINTENANCE AND OFFICERS OF PRISONS.

4. The Local Government shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners. Accommodation for prisoners.

5. An Inspector General shall be appointed for the territories subject to each Local Government, and shall exercise, subject to the orders of the Local Government, the general control and superintendence of all prisons situated in the territories under such Government. Inspector General

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the Local Government thinks necessary : Officers of prisons.

Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor General in Council, declare by order in writing that in any prison specified in the order the office of Jailer shall be held by the person appointed to be Superintendent.

7. Whenever it appears to the Inspector General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison, Temporary accommodation for prisoners.

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the Local Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

## CHAPTER III.

### DUTIES OF OFFICERS.

#### *Generally.*

8. All officers of a prison shall obey the directions of the Superintendent ; all officers subordinate to the Jailer shall perform such duties as may be Control, and duties of

*(Chap. III.—Duties of Officers. Secs. 9-13.)*

officers of  
prisons.

imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section 60.

Officers not  
to have  
business  
dealings  
with prison-  
ers.

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.

Officers not  
to be inter-  
ested in pris-  
on-contracts.

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor shall he derive any benefit, directly or indirectly from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

*Superintendent.*

Superin-  
tendent.

11. (1) Subject to the orders of the Inspector General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such general or special directions as may be given by the Local Government, the Superintendent of a prison other than a central prison or a prison situated in a presidency-town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector General all such orders and the action taken thereon.

Records to be  
kept by  
Superintend-  
ent.

12. The Superintendent shall keep, or cause to be kept, the following records:—

- (1) a register of prisoners admitted;
  - (2) a book showing when each prisoner is to be released;
  - (3) a punishment-book for the entry of the punishments inflicted on prisoners for prison-offences;
  - (4) a visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison;
  - (5) a record of the money and other articles taken from prisoners;
- and all such other records as may be prescribed by rules under section 59 or section 60.

*Medical Officer.*

Duties of  
Medical  
Officer.

13. Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the Local Government under section 60.

*(Chap. III.—Duties of Officers. Secs. 14-19.)*

14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent,\* together with such observations as he may think proper.

Medical Officer to report in certain cases.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector General for information.

15. On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely :—

Report on death of prisoner.

(1) the day on which the deceased first complained of illness or was observed to be ill,

(2) the labour, if any, on which he was engaged on that day,

(3) the scale of his diet on that day,

(4) the day on which he was admitted to hospital,

(5) the day on which the Medical Officer was first informed of the illness,

(6) the nature of the disease,

(7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,

(8) when the prisoner died, and

(9) (in cases where a post-mortem examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer to be required.

*Jailer.*

16. (1) The Jailer shall reside in the prison, unless the Superintendent Jailer permits him in writing to reside elsewhere.

(2) The Jailer shall not, without the Inspector General's sanction in writing, be concerned in any other employment.

17. Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

Jailer to give notice of death of prisoner. Responsibility of Jailer.

18. The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

19. The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave

Jailer to be present at night.

(Chap. III.—Duties of Officers. Secs. 20-23. Chap. IV.—Admission, Removal and Discharge of Prisoners. Secs. 24-25.)

for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

Powers of  
Deputy and  
Assistant  
Jailers.

20. Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

#### *Subordinate Officers.*

Duties of  
gate-keeper.

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

Subordinate  
officers not  
to be absent  
without  
leave.  
Convict  
officers.

22. Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.

23. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.<sup>1</sup>

XLV of 1860.

### CHAPTER IV.

#### ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

Prisoners to  
be examined  
on admission.

24. (1) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

Effects of  
prisoners.

25. All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.



(Chap. IV.—*Admission, Removal and Discharge of Prisoners. Sec. 26,*  
*Chap. V.—Discipline of Prisoners. Secs. 27-30.*)

the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

26. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

Removal and  
discharge of  
prisoners.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

## CHAPTER V.

### DISCIPLINE OF PRISONER

27. The requisitions of this Act with respect to the separation of prisoners are as follows :—

Separation  
of prisoners.

(1) in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners :

(2) in a prison where male prisoners under the age of eighteen are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not :

(3) unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners ; and

(4) civil prisoners shall be kept apart from criminal prisoners.

28. Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

Association  
and segrega-  
tion of pris-  
oners.

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

Solitary con-  
finement.

30. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer,

Prisoners  
under sen-

(Chap. VI.—*Food, Clothing and Bedding of Civil and Unconvicted Criminal Prisoners. Secs. 31-33. Chap. VII.—Employment of Prisoners. Sec. 34.*)

tence of  
leath.

and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

## CHAPTER VI.

### FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS.

Maintenance  
of certain  
prisoners  
from private  
sources.

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessities, but subject to examination and to such rules as may be approved by the Inspector General.

Restriction  
on transfer  
of food and  
clothing  
between  
certain  
prisoners.

32. No part of any food, clothing, bedding or other necessities belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner; and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Supply of  
clothing and  
bedding to  
civil and  
unconvicted  
criminal  
prisoners.

33. (1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall, within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner may be released.

## CHAPTER VII.

### EMPLOYMENT OF PRISONERS.

Employments  
of civil pris-  
oners.

34. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are main-

(Chap. VII.—*Employment of Prisoners. Secs. 35-36. Chap. VIII.—Health of Prisoners. Secs. 37-38.*)

tained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

35. (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day. Employment of criminal prisoners

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

36. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner. Employment of criminal prisoners sentenced to simple imprisonment.

## CHAPTER VIII.

### HEALTH OF PRISONERS.

37. (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer. Sick prisoners.

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day Record of directions of Medical Officers.

(Chap. VIII.—*Health of Prisoners.* Sec. 39. Chap. IX.—*Visits to Prisoners.* Secs. 40-41. Chap. X.—*Offences in relation to Prisoners.* Sec. 42.)

in the prisoner's history-ticket or in such other record as the Local Government may by rule direct, and the Jailer shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make, and the date of the entry.

Hospital.

39. In every prison an hospital or proper place for the reception of sick prisoners shall be provided.

## CHAPTER IX.

### VISITS TO PRISONERS.

Visits to civil and unconvicted criminal prisoners.

40. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that, so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

Search of visitors.

41. (1) The Jailer may demand the name and address of any visitor to a prisoner, and, when the Jailer has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailer may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as the Local Government may direct.

## CHAPTER X.

### OFFENCES IN RELATION TO PRISONS.

Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

42. Whoever, contrary to any rule under section 60, introduces or removes or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

(Chap. X.—Offences in relation to Prisons. Secs. 43-44. Chap. XI.—  
Prison-offences. Sec. 45.)

and whoever, contrary to any such rule, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

43. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

Power to  
arrest for  
offence under  
section 42.

44. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 42 and the penalties incurred by their commission.

Publication  
of penalties.

## CHAPTER XI.

### PRISON-OFFENCES.

45. The following acts are declared to be prison-offences when committed by a prisoner :—

Prison-  
offences.

- (1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under section 59 to be a prison-offence ;
- (2) any assault or use of criminal force ;
- (3) the use of insulting or threatening language ;
- (4) immoral or indecent or disorderly behaviour ;
- (5) wilfully disabling himself from labour ;
- (6) contumaciously refusing to work ;
- (7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority ;
- (8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment ;
- (9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment ;
- (10) wilful damage to prison-property ;
- (11) tampering with or defacing history-tickets, records or documents ;

## (Chap. XI.—Prison-offences. Sec. 46.)

- (12) receiving, possessing or transferring any prohibited article ;
- (13) feigning illness ;
- (14) wilfully bringing a false accusation against any officer or prisoner ;
- (15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official ; and
- (16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Punishment  
of such  
offences.

46. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

- (1) a formal warning :

*Explanation.*—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history-ticket ;

- (2) change of labour to some more irksome or severe form ;
- (3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment ;
- (4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the Governor General in Council ;
- (5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months ;
- (6) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor General in Council ;
- (7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the Governor General in Council ;
- (8) separate confinement for any period not exceeding six months :

*Explanation.*—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners ;

- (9) penal diet,—that is, restriction of diet in such manner and subject to

*(Chap. XI.—Prison-offences. Sec. 47.)*

such conditions regarding labour as may be prescribed by the Local Government:

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week ;

(10) cellular confinement for any period not exceeding fourteen days :

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement :

*Explanation.*—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners :

(11) solitary confinement for any period not exceeding seven days :

Provided that after each period of solitary confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to solitary or cellular confinement :

*Explanation.*—Solitary confinement means such confinement with or without labour as entirely secludes the prisoner both from sight of, and communication with, other prisoners ;

(12) penal diet as defined in clause (9) combined with solitary confinement as defined in clause (11) ;

(13) whipping, provided that the number of stripes shall not exceed thirty :

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

47. Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely :—

Plurality of punishments under section 46.

(1) formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section ;

(2) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with solitary confinement ;

(3) solitary confinement shall not be combined with cellular confinement or with separate confinement, nor cellular confinement with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable ;

*(Chap. XI.—Prison-offences. Secs. 48-51.)*

(4) whipping shall not be combined with any other form of punishment except cellular or separate confinement and loss of privileges admissible under the remission system.

Award of  
punishments  
under sec-  
tions 46 and  
47.

48. (1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

Punishments  
to be in  
accordance  
with forego-  
ing sections.

49. Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

Medical  
Officer to cer-  
tify to fitness  
of prisoner  
for punish-  
ment.

50. (1) No punishment of penal diet, either singly or in combination, or of whipping, or of change of labour under section 46, clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

Entries in  
punishment-  
books

51. (1) In the punishment-book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries.



(Chap. XI.—*Prison-offences.* Secs. 52-54. Chap. XII.—*Miscellaneous.*  
Sec. 55.)

52. If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction, may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 16 :

Procedure on  
committal  
of heinous  
offence.

Provided that the District Magistrate may transfer the case for inquiry and trial to any Magistrate of the first class : and

Provided also that no person shall be punished twice for the same offence.

53. (1) No punishment of whipping shall be inflicted in instalments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate. Whipping.

(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

54. (1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison-duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

Offences by  
prison subor-  
dinates.

(2) No person shall under this section be punished twice for the same offence.

## CHAPTER XII.

### MISCELLANEOUS.

55. A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond Extramural custody, control and

employment  
of prisoners.

the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

Confinement  
in irons.

56. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector General with the sanction of the Local Government, so confine them.

Confinement  
of prisoners  
under sen-  
tence of  
transport-  
ation in  
irons.

57. (1) Prisoners under sentence of transportation may, subject to any rules made under section 60, be confined in fetters for the first three months after admission to prison.

(2) Should the Superintendent consider it necessary, either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector General for sanction to their retention for the period for which he considers their retention necessary, and the Inspector General may sanction such retention accordingly.

Prisoners not  
to be ironed  
by Jailer  
except under  
necessity.  
Power to  
make rules.

58. No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

59. The Governor General in Council may for any part of British India, and each Local Government with the previous sanction of the Governor General in Council may for the territories under its administration, make rules consistent with this Act—

- (1) defining the acts which shall constitute prison-offences ;
- (2) determining the classification of prison-offences into serious and minor offences ;
- (3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof ;
- (4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code<sup>1</sup> may or may XLV of not be dealt with as a prison-offence ;
- (5) for the award of marks and the shortening of sentences ;
- (6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape ;
- (7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released ;

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

*(Chap. XII.—Miscellaneous. Sec. 60.)*

(8) regulating the transfer from one part of British India to another of prisoners whose term of transportation or imprisonment is about to expire ; and,

(9) generally, for carrying into effect the purposes of this Act.

60. The Local Government may, subject to the control of the Governor General in Council, make rules<sup>1</sup> consistent with this Act—

Power of  
Local Govern-  
ment to make  
rules.

- (a) for the classification of prisons, and description and construction of wards, cells and other places of detention ;
- (b) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons ;
- (c) for the government of prisons and for the appointment, guidance, control, punishment and dismissal of all officers appointed under this Act ;
- (d) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost ;
- (e) for the employment, instruction and control of convicts within or without prisons ;
- (f) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited ;
- (g) for classifying and prescribing the forms of labour and regulating the periods of rest from labour ;
- (h) for regulating the disposal of the proceeds of the employment of prisoners ;
- (i) for regulating the confinement in fetters of prisoners sentenced to transportation ;
- (j) for the classification and the separation of prisoners ;
- (k) for regulating the confinement of convicted criminal prisoners under section 28 ;
- (l) for the preparation and maintenance of history-tickets ;
- (m) for the selection and appointment of prisoners as officers of prisons ;
- (n) for rewards for good conduct ;

<sup>1</sup> For rules made by the Government of Bombay for the classification and treatment of prisoners under Bombay Act II of 1874, printed, Bombay Code, Vol. II, Ed. 1896, p. 185, which are kept in force by this Act, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1897, pp. cxlix and cliv.

For rules regarding Government prisons in the Central Provinces made under Act XXVI of 1870 and kept in force by this Act, see Central Provinces List of Local Rules and Orders, Ed. 1896, p. 59.

For rules for the management and superintendence of jails in the Madras Presidency, see Madras List of Local Rules and Orders, Ed. 1898, p. 251, and for notification prescribing a new Jail Code, see *ibid.*

(Chap. XII.—Miscellaneous. Secs. 61-62. The Schedule.—Enactments repealed.)

- (o) for regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire ;
- (p) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons ;
- (q) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends ;
- (r) for the appointment and guidance of visitors of prisons ;
- (s) for extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, X of 1882,<sup>1</sup> and to the officers employed, and the prisoners confined, therein ; and,
- (t) generally, in regard to the admission, custody, employment, dieting, treatment and release of prisoners, and for other purposes consistent with this Act.

Exhibition of  
copies of  
rules.

61. Copies of rules, under sections 59 and 60 so far as they affect the government of prisons, shall be exhibited, both in English and in the Vernacular, in some place to which all persons employed within a prison have access.

Exercise of  
powers of  
Superintendent  
and  
Medical  
Officer.

62. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the Local Government may appoint in this behalf either by name or by his official designation.

## THE SCHEDULE.

### ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Title or short title	Extent of repeal.
1		3	4
<i>Acts of the Governor General in Council.</i>			
1856	VIII	An Act for the better control of the jails within the Presidency of Bombay.	So much as has not been repealed.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

(The Schedule.—Enactments repealed.)

THE SCHEDULE—*contd.*

Year.	No.	Title or short title.	Extent of repeal.
1	2	3	4

*Acts of the Governor General in Council—concl'd.*

1870	XXVI	Prisons Act, 1870 . . .	So much as has not been repealed.
<sup>1</sup> 1874	XV	Laws Local Extent Act, 1874.	So much of Part (b) of the third schedule as relates to Act VIII of 1858.
<sup>2</sup> 1878	XIV	An Act to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh.	Section 2.
<sup>3</sup> * <sup>4</sup> 1891	* XII	* Repealing and Amending Act, 1891.	* So much of the second schedule as relates to Acts VIII of 1856 and XXVI of 1870.

*Acts of the Governor of Fort St. George in Council.*

1869	V . .	Madras Jails Act, 1869 . .	So much as has not been repealed.
1882	VII . .	Madras Jails Act Amendment Act, 1882.	The whole.
1889	II . .	An Act to amend the Madras Jails Act, 1869.	The whole.

*Acts of the Governor of Bombay in Council.*

<sup>5</sup> 1874	II . .	An Act for the regulation of Jails in the City and Presidency of Bombay, and the enforcement of discipline therein.	So much as has not been repealed except sections 9 to 16 (both inclusive) as amended by Bombay Act II of 1882.
<sup>6</sup> 1882	II . .	An Act to amend Bombay Act II of 1874.	Section 3.
1883	IV . .	An Act to amend the Law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code.	The whole.

<sup>1</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 483.<sup>2</sup> Printed, N.-W. P. and Oudh Code, Ed. 1892, p. 339.<sup>3</sup> The entry repealing that portion of the Upper Burma Laws Act, 1886 (XX of 1886), which relates to Act XXVI of 1870 was repealed by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.<sup>4</sup> Printed, *supra*, p. 82.<sup>5</sup> Printed, Bombay Code, Vol. II, Ed. 1886, p. 1857.<sup>6</sup> Printed, Bombay Code, Vol. III, Ed. 1890, p. 4.

(The Schedule.—Enactments repealed.)

## THE SCHEDULE—concl'd.

Year	No.	Title or short title.	Extent of repeal.
1	2	3	4

*Acts of the Governor of Bombay in Council—concl'd.*

1887	I	An Act to further amend Bombay Act II of 1874.	The whole.
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*Acts of the Lieutenant-Governor of Bengal in Council.*

1864	II	An Act for the regulation of Jails and the enforcement of discipline therein.	So much as has not been repealed.
1865	V	An Act, to amend Act II of 1864, passed by the Lieutenant-Governor of Bengal in Council, and to extend the provisions thereof to the Presidency Jail	So much as has not been repealed.

*Regulations made under the Statute 33 Victoria, Chapter 3.*

<sup>1</sup> 1872	III	Santhal Parganas Settlement Regulation.	So much of the Schedule (as amended by Regulation III of 1886) as relates to Bengal Acts II of 1864 and V of 1865.
<sup>2</sup> 1874	IX	Arakan Hill District Laws Regulation, 1874.	So much as relates to Act XXVI of 1870.
1875	II	Assam Prisons Regulation, 1875.	The whole.
<sup>3</sup> 1890	I	British Baluchistan Laws Regulation, 1890.	So much as relates to Act XXVI of 1870.

<sup>1</sup> Printed, Bengal Code, Vol. I, Ed. 1889, p. 597.<sup>2</sup> Printed, Burma Code, Ed. 1889, p. 353.<sup>3</sup> Printed, Baluchistan Code, Ed. 1890, p. 69.

THE INDIAN ARTICLES OF WAR AMENDMENT ACT,  
1894.

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72. Substitution of new articles for articles 176 to 179.
73. Substitution of new Part for Part III.
74. Addition of Second Appendix to Articles.

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THE SCHEDULE.

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ACT No. XII OF 1894.<sup>1</sup>

[12th October, 1894.]

## An Act to amend the Articles of War for the Government of Her Majesty's Indian Forces.

WHEREAS it is expedient to amend the Articles of War for the Government of Her Majesty's Indian Forces ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Articles of War Amendment Act, 1894 ; and

(2) It shall come into force on such date as the Governor General in Council may by notification in the Gazette of India fix in that behalf.<sup>2</sup>

2. Part I, clause (c), of the Indian Articles of War (hereinafter called **V** of 1869. "the said Articles"), is hereby repealed.

3. For Part I, clause (d), of the said Articles the following shall be substituted, namely :—

“(d).—*Application of Articles.*

“These Articles shall apply to all—

- (a) persons to whom they actually apply at present ;<sup>3</sup>
- (b) persons commissioned or gazetted as Native officers, or gazetted as warrant officers, of Her Majesty's Indian Forces ;
- (c) medical subordinates ;
- (d) persons attested under these Articles ;
- (e) unattested recruits ;
- (f) persons enrolled under these Articles ;
- (g) persons, not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by the Governor General in Council by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, Her Majesty's Indian Forces :

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1894, Pt. V, p. 125 ; for Report of the Select Committee, *see ibid.*, p. 139 ; and for Proceedings in Council, *see ibid.*, Pt. VI, pp. 224, 227, 233 and 235. As being part of the Indian Articles of War (Act V of 1869), printed, General Acts, Vol. II, Ed. 1898, p. 38, this Act was declared in force in Upper Burma, by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

The Act has been extended to British Baluchistan by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), *see* Gazette of India, 1896, Pt. II, p. 1064.

<sup>2</sup> The 1st April, 1895, *see* Notification No. 1018, dated 2nd November, 1894, Gazette of India, 1894, Pt. I, p. 603.

<sup>3</sup> That is, at the time the Act received assent, 12th October, 1894.

(Sec. 4.)

Provided as follows :—

if any person claims to belong to a class to which the Army Act<sup>1</sup> is, and these Articles are not, applicable, the burden of proving that he belongs to that class shall lie upon him.”

Substitution  
of new clause  
for clause  
(e) of Part I.

4. For Part I, clause (e), of the said Articles the following shall be substituted, namely :—

“(e).—*Definitions.*

“In these Articles, unless there is something repugnant in the subject or context,—

(1) ‘notification’ means a notification published in the official Gazette :

(2) ‘prescribed’ means prescribed by rules made by the Governor General in Council or by any authority empowered by him in this behalf :

(3) ‘British officer’ means an officer holding a commission in Her Majesty’s land forces, but does not include an honorary commissioned officer :

(4) ‘Native officer’ means an officer commissioned or gazetted as an officer holding a Native rank in Her Majesty’s Indian Forces :

(5) ‘officer’ means a British officer or Native officer, but does not include a warrant officer or non-commissioned officer :

(6) ‘medical subordinate’ means a senior hospital assistant, a hospital assistant of the first, second or third class, and a sub-hospital assistant, but does not include an officer :

(7) ‘superior officer,’ when used in relation to a person subject to these Articles, includes a warrant officer, a non-commissioned officer and an acting non-commissioned officer :

(8) ‘soldier’ includes a non-commissioned officer and any armed person doing duty in the ranks of Her Majesty’s Indian Forces :

(9) ‘recruit’ means a person enlisted for enrolment in any corps or department as a soldier :

(10) ‘corps’ means a unit of command, such as a regiment of cavalry, a regiment or battalion of infantry, a battery of artillery, and any other separate body of troops which is declared by the Governor General in Council by general or special order to be a corps for the purposes of these Articles ; it also includes an army hospital corps and a transport corps :

(11) ‘department’ includes any division or branch of a department :

(12) ‘military reward’ means any gratuity or annuity for long service or good conduct ; it also includes any good-conduct pay or pension and any other pecuniary reward :

<sup>1</sup>Printed, Supplement to the Collection of Statutes relating to India, Ed. 1881, p. 22.

## (Sec. 4.)

(13) 'enemy' includes all armed mutineers, armed rebels, armed rioters and pirates :

(14) 'active service,' as applied to a person subject to these Articles, means the time during which such person is attached to or forms part of a force which is engaged in operations against an enemy, or is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country :

(15) the expression 'India'<sup>1</sup> means British India, together with any territories of any Prince or Chief under the suzerainty of Her Majesty exercised through the Governor General in Council or through any Governor in Council or other officer subordinate to the Governor General in Council : and the expression 'British India'<sup>2</sup> means all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor General in Council or through any Governor in Council or other officer subordinate to the Governor General in Council :

(16) the expression 'general officer of the Command' means the general officer commanding the forces in a Command : and the expression 'Command' means one of the principal portions into which the army of India is, for the time being, divided :

(17) 'commanding officer,' when used in any provision of these Articles with reference to any separate portion of Her Majesty's forces or to any department, means the British officer whose duty it is under the Army Regulations, India, or, in the absence of any such Regulation, by the custom of the service, to discharge with respect to that portion of the forces or that department the functions of commanding officer in regard to matters of the description referred to in that provision :

(18) 'military custody' means the arrest or confinement of a person, according to the usages of the service :

(19) 'court-martial' means a court-martial held under these Articles :

(20) 'criminal court' means a court of ordinary criminal justice in British India, or established or continued elsewhere by the authority of the Governor General in Council :

(21) 'civil offence' means an offence which if committed in British India would be triable by a criminal court :

(22) 'offence' means any act or omission punishable under these Articles and includes a civil offence as hereinbefore defined : and

<sup>1</sup> Cf. definition in s. 3 (27) of the General Clauses Act, 1897 (X of 1897), printed, *infra*, p. 316.

<sup>2</sup> Cf. definition in s. 3 (v) of the General Clauses Act, 1897 (X of 1897).

(Secs. 5-6.)

(25) expressions occurring in the Indian Penal Code<sup>1</sup> and used in these XLV of 186 Articles and not herein otherwise defined shall have the meanings respectively assigned to them by that Code.”

Substitution  
of new clause  
for clause (f)  
of Part I.

5. For Part I, clause (f), of the said Articles the following shall be substituted, namely :—

“ (f).—*Saving of certain Regulations.*

“ Nothing in these Articles shall affect any regulations by which the respective offices and powers of cantonment magistrates and officers in charge of the police in cantonments are defined and controlled.”

Substitution  
of new title  
for Title I of  
Part II.

6. For Part II, Title I, of the said Articles the following shall be substituted, namely :—

“ TITLE I.—ENROLMENT, ATTESTATION, DISMISSAL AND DISCHARGE.

Enrolment  
and attest-  
ation.

“ *Article 1.*—(1) The Governor General in Council may, by notification, declare what persons or classes of persons shall be enrolled only, or be both enrolled and attested, respectively.”

Mode of en-  
rolment.

(2) A person shall be deemed to be enrolled under these Articles when his name has, with his consent, been entered in the prescribed manner on the list of a corps or department of Her Majesty’s Indian Forces.

Mode of  
attestation.

(3) Subject to the provisions of this article with respect to recruits, every person to be attested under these Articles shall be taken before the prescribed civil or military officer, and that officer shall read and explain to him, or cause to be read and explained to him in his presence, the questions set forth in the prescribed form of attestation, and such other matters (if any) as may be prescribed ; and, after having cautioned him that if he makes a false answer to any question set forth in the attestation form he will be liable to be punished as provided by these Articles, shall record the answer to each question, and shall, if he is satisfied that the person fully understands the questions, and that the answer has been correctly recorded opposite each question, and if he perceives no impediment, administer to the person an affirmation or oath in the prescribed form.

(4) The form of affirmation or oath prescribed under this Article shall contain a promise that the person to be attested will be faithful to Her Majesty, Her heirs and successors, and that he will serve in Her Majesty’s Indian Forces and go wherever he is ordered by land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>2</sup> For declaration made under this article, see Gazette of India, 1895, Pt. I, p. 490, and 1896, Pt. I, p. 964.

(See 6)

(5) When a recruit is reported fit for duty, an affirmation or oath in the same form shall be administered to him in the prescribed manner by the commanding officer in front of the corps or such portion thereof or such members of the department as shall be present.

(6) After administering the affirmation or oath, the officer shall authenticate the attestation paper by his signature, and the person shall then be deemed to have been attested.

(7) Subject to any rules which may be prescribed, the Commander-in-Chief in India, or the general officer of the Command, may direct that any persons to whom these Articles apply as attested persons shall, for the purposes of these Articles, be deemed to be enrolled, and that any persons to whom these Articles apply as enrolled persons shall, for the purposes of these Articles, be deemed to be attested.

Treatment of enrolment and attestation as of same effect in certain cases.

t. "Article 2.—(1) Subject to the provisions of the Army Act,<sup>1</sup> the Governor General in Council may, by notification, direct that persons of any class subject to these Articles shall, for any of the purposes of these Articles, be deemed to be Native officers, warrant officers or non-commissioned officers; and,

Rank and subordination.

(2) Subject as aforesaid, any prescribed authority may issue an order giving a like direction with respect to any such person.

(3) Any notification or order issued under this article may be cancelled by the authority issuing the same; and,

(4) Subject as aforesaid, any person of the said classes with respect to whom no such notification or order is in force shall, so far as may be, be deemed for all the purposes of these Articles to be of a rank inferior to that of a non-commissioned officer.

(5) Should any question arise as to the rank of any other person subject to these Articles, or as to whether any such person is above or below a specified rank, the decision of the Governor General in Council thereon shall be conclusive.

(6) Every person subject to these Articles shall, for the purposes thereof, be deemed to be under the commanding officer of the corps or department (if any) to which he is attached, and, if not attached to any corps or department, under any officer who may for the time being be named as his commanding officer by the general or other officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the said general or other officer commanding:

<sup>1</sup> Printed, Supplement to the Collection of Statutes relating to India, Ed. 1881, p. 22.

## (Sec. 6.)

Provided that a general or other officer commanding shall not place any person under an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whom he can be placed.

Dismissal and discharge of commissioned officers.

“*Article 3.*—(1) Every Native officer shall be liable to dismissal from the service by the sentence of a general court-martial, and to dismissal or discharge by order of the Governor General in Council, or of the Commander-in-Chief in India, or of the general officer of the Command to which he belongs.

(2) A Native officer dismissed under these Articles shall forfeit all claim to pension.

Dismissal and discharge of other persons.

“*Article 4.*—(1) Every person subject to these Articles, other than a Native officer, shall be liable to—

(a) dismissal from the service by the sentence of any court-martial empowered to try him, and

(b) dismissal or discharge from the service, by order of the Governor General in Council, or of the Commander-in-Chief in India, or of the general officer of the Command to which he belongs, or of the officer commanding the division or district in which he is serving, or, if he belongs to a force not attached to a command, by order of the officer commanding such force.

(2) Every person so dismissed shall forfeit all claim to pension.

Attested person dismissed or discharged and re-enlisting or making false answer at his attestation.

“*Article 5.*—(1) Every attested person of or below the rank of non-commissioned officer who has been dismissed or discharged from the service, and who subsequently re-enters the service without at the time stating the fact of his dismissal or discharge, or showing his certificate of dismissal or discharge, may be dismissed the service by the officer commanding the corps or department with which he is serving; and

(2) Every attested person of or below the rank of non-commissioned officer who is discovered to have made a wilfully false answer to any question set forth in the attestation paper which has been put to him by, or by direction of, the officer before whom he appears for the purpose of being attested, shall, on conviction by court-martial, be liable to suffer imprisonment (with hard labour and with or without solitary confinement) or such less punishment as is in these Articles mentioned.

Certificate to person dismissed or discharged.

“*Article 6.*—Every attested person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, in the English language and in the mother-tongue of such person (when his mother-tongue is not English), setting forth—

(a) the authority dismissing or discharging him;

(Secs. 7-12.)

(b) the cause of his dismissal or discharge; and

(c) the full period of his service in the army."

7. In article 7, sentence I, of the said Articles, the words "in any regiment, corps, detachment or guard" are hereby repealed.

Repeal of portion of article 7.

8. For the third sentence of the last-mentioned article the following shall be substituted, namely:—

Substitution of new sentence for third sentence of same article.

"or who, knowing or having reason to believe in the existence of any mutiny or sedition, or of any intention to mutiny or create sedition, or of any conspiracy against the State."

9. In article 8 of the said Articles, for the words "under any circumstances in which the superior officer is distinguishable as such in any manner" the words "knowing or having reason to believe him to be such" shall be substituted.

Amendment of article 8.

10. For articles 10 and 11 of the said Articles the following shall be substituted, namely:—

Substitution of new articles for articles 10 and 11.

*"Desertion.*

"Article 10.—Who deserts or attempts to desert the service;—or

*"Re-enlistment without having been discharged.*

"Article 11.—Who, without having first obtained a regular discharge from the corps or department to which he belongs, enlists or enrolls himself in any other corps or department;—or "

11. For the last paragraph of article 24 of the said Articles the following shall be substituted, namely:—

Amendment of article 24.

"Whenever any person is convicted of an offence specified in article 7 and punishable with death under this article, all his property, moveable and immoveable, shall be forfeited to the Government."

12. For articles 25 and 26 of the said Articles the following shall be substituted, namely:—

Substitution of new articles for articles 25 and 26.

*"Unbecoming behaviour.*

"Article 25.—Any officer, medical subordinate or warrant officer who behaves in a manner unbecoming his position and character;—and any person subject to these Articles—

*"Intoxication on duty.*

"Article 26.—Who is in a state of intoxication when on or after having been warned for any duty, or on parade, or on the line of march;—or "

(Secs. 13-17.)

Substitution  
of new  
article for  
article 31.

13. For article 31 of the said Articles the following shall be substituted, namely :—

*“ Failure to rejoin.*

*“ Article 31.—Who, being on leave of absence and having received information from proper authority that his corps or department has been ordered on service, fails, without sufficient cause, to rejoin without delay ;—or ”.*

Substitution  
of new  
article for  
article 39.

14. For article 39 of the said Articles the following shall be substituted, namely :—

*“ Impeding Provost-marshal.*

*“ Article 39.—Who impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost-marshal or any such officer, non-commissioned officer or other person ;—or ”.*

Amendment  
of article 40.

15. In article 40 of the said Articles the words “ enrolled or ” shall be inserted between the word “ person ” and the word “ attested.”

Substitution  
of new article  
for article 47.

16. For article 47 of the said Articles the following shall be substituted, namely :—

*“ Making away with regimental necessaries.*

*“ Article 47.—Who —*

(a) designedly or through neglect kills, injures, makes away with or loses his horse or ill-treats any animal used in the public service ;  
—or

(b) dishonestly or fraudulently removes, conceals or delivers to any person, or designedly or through neglect injures or loses his arms, clothes, tools, musical or surgical instruments, equipments, ammunition, accoutrements or regimental necessaries, or any such articles entrusted to him or belonging to any other person ;—or

(c) sells, pawns, destroys or defaces any medal or decoration granted to him by order of Her Majesty or of the Governor General in Council for service in the field or for general good conduct ;—or ”.

Substitution  
of new article  
for article 57.

17. For article 57 of the said Articles the following shall be substituted, namely :—

*“ Punishment for offences mentioned in articles 54, 55 and 56.*

*“ Article 57.—Shall, if convicted by a general court-martial, be sentenced to be dismissed the service and to forfeit any arrears of pay and allowances due*



(Secs. 18-23.)

to him at the time of dismissal, and shall be punishable also with imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to two years; and shall, if convicted by a district court-martial, be liable to any or all of the penalties which such court is competent to inflict."

18. In article 65 of the said Articles the word "other" shall be omitted.

Amendment of article 65.

19. For article 66 of the said Articles the following shall be substituted, namely:—

Substitution of new article for article 66.

*"Penalties for offences specified in articles 58 to 65.*

*"Article 66.*—Shall, on conviction by a general or district court-martial, be liable to any or all of the punishments, other than death or transportation, which the court-martial is competent to award."

20. In article 69 of the said Articles, for the words "such punishments as" to the end, the words "any or all of the punishments, other than death or transportation, which the court-martial is competent to award" shall be substituted.

Amendment of article 69.

21. For article 71 of the said Articles the following shall be substituted, namely:—

Substitution of new article for article 71.

*"Abetment.*

800. *"Article 71.*—Every person who abets, within the meaning of the Indian Penal Code,<sup>1</sup> any offence punishable under these Articles may be punished with the punishment hereinbefore provided in these Articles for such offence."

22. For article 72 of the said Articles the following shall be substituted, namely:—

Substitution of new article for article 72. Courts-martial and the kinds thereof.

*"Article 72.*—For the purposes of these Articles, there shall be five kinds of courts-martial, that is to say—

- |                                     |   |   |
|-------------------------------------|---|---|
| (1) General courts-martial.         | } | Hereinafter called ordinary courts-martial.       |
| (2) District courts-martial.        |   |   |
| (3) Regimental courts-martial.      |   |   |
| (4) Summary general courts-martial. | } | Hereinafter called extraordinary courts-martial." |
| (5) Summary courts-martial.         |   |   |

23. For articles 73 and 74 of the said Articles the following shall be substituted, namely:—

Substitution of new articles for articles 73 and 74.

*"Ordinary Courts-martial.*

*"Article 73.*—(1) The following authorities shall have power to convene general or district courts-martial, namely:—

Power to convene ordinary courts-martial.

(a) the Commander-in-Chief in India,

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Secs. 24-28.)

(b) the general officer of the Command,

(c) any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command.

(2)<sup>1</sup> The power of convening general or district courts-martial may be granted under clause (1), sub-clause (c), subject to such restrictions, reservations, exceptions and conditions as the Commander-in-Chief in India or the general officer of the Command granting the power may think fit.

(3) Any warrant under this article for convening general or district courts-martial, or either of them, may be addressed to an officer by name, or by designation of his office, or partly in one way and partly in the other, and may or may not, according to the terms thereof and the mode in which it is addressed, be limited to an officer named or be extended to any person for the time being performing the duties of such officer, or to the successors in command of such officer.

Composition  
of general  
courts-mar-  
tial.

"Article 74.—A general court-martial shall, if held in British India, consist of not less than seven officers, unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than five officers."

Repeal of  
articles 75, 77,  
78 and 79.

24. Articles 75, 77, 78 and 79 of the said Articles are hereby repealed.

Amendment  
of article 76.

25. In article 76 of the said Articles, for the words "reduction to the ranks" the words "reduction to a lower grade or to the ranks" shall be substituted.

Substitution  
of new arti-  
cles for arti-  
cles 80 and  
81.

26. For articles 80 and 81 of the said Articles the following shall be substituted, namely :—

Composition  
of district  
court-mar-  
tial.

"Article 80.—A district court-martial shall consist of not less than five officers, unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than three officers.

"Article 81.—A district court-martial may, when necessary, be composed wholly of officers of the corps or department to which the accused belongs."

Amendment  
of article 82.

27. In article 82 of the said Articles the words "or garrison" and the words "other than mutiny" shall be omitted.

Further  
amendment  
of same arti-  
cle.

28. In the last-mentioned article, for the words "one year" the words "two years" and for the words "reduction to the ranks" the words "reduction to a lower grade or to the ranks" shall be respectively substituted.

<sup>1</sup> For notification issued under this power, see Gazette of India, 1878, Pt. I, p. 293.

(Secs. 29-31.)

29. After article 82 of the said Articles the following article shall be inserted, namely :—

Insertion of new article after article 82.

“ *Article 82A*—Whenever a general or district court-martial is ordered to be composed of the smaller number of officers specified in article 74 or 80, the order convening the court shall expressly state that the larger number of officers is not, due regard being had to the public service, available; and that statement shall be conclusive evidence of the fact so stated.”

Convening order to state if larger number of officers is not available.

30. For articles 83, 84 and 85 of the said Articles the following shall be substituted, namely :—

Substitution of new articles for articles 83, 84 and 85.

“ *Article 83*.—A regimental court-martial may be appointed by the officer commanding any corps or department or detachment thereof or by any officer when in command of two or more corps or departments or detachments thereof.

Appointment of regimental court-martial.

“ *Article 84*.—A regimental court-martial shall consist of not less than three officers.

Composition of regimental court-martial.

“ *Article 85*.—A regimental court-martial shall have power to try all persons subject to these Articles and not above the rank of non-commissioned officer—

Powers of such court.

(a) for any offence triable by a court-martial under these Articles, except an offence punishable under articles 7 to 23 (both inclusive), articles 54 to 65 (both inclusive), or articles 171 to 173 (both inclusive), and,

(b) with the previous sanction of the prescribed authority, for any of the offences so excepted.

“ *Article 85A*.—A regimental court-martial shall have power to pass any sentence which might have been passed by a district court-martial for the like offence other than suspension from rank, pay and allowances :

Powers as to sentences of such courts.

Provided that no sentence of imprisonment for a term exceeding six months, nor any of the additional punishments specified in article 135, shall be passed by a regimental court-martial.”

31. For articles 86 to 89 (both inclusive) of the said Articles the following shall be substituted, namely :—

Substitution of new articles for articles 86 to 89.

“ *Article 86*.—(1) The officers composing a court-martial convened under the foregoing provisions shall, except as hereinafter provided, be Native officers.

Native and British officers when to be nominated.

(2) The Governor General in Council, or the Commander-in-Chief in

## (Sec. 31.)

India, or the general officer of the Command, or any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command, may direct that any court-martial convened under these Articles shall be composed of British instead of Native officers.

(3) Any person subject to these Articles, who is under orders for trial by any court-martial, may claim to be tried by British officers.

(4) In all cases the right of making such a claim shall, before the court is convened, be explained to the person under orders for trial by the commanding officer, or some officer deputed by him in this behalf, and, when such a claim is made, the court shall be constituted accordingly.

(5) A court-martial convened for the trial of any person subject to these Articles, and serving with any British corps or detachment, may be composed of British officers if, in the opinion of the officer convening the court (such opinion to be expressed in the order convening the court and to be conclusive), Native officers are not available with due regard to the public service for service on the court.

Judge advocate and appointment of superintending officer for native court-martial.

"Article 87.—(1) Every general court-martial shall be attended by a judge advocate.

(2) If no officer of the judge advocate general's department is available, the officer convening the court shall appoint a fit person to act as judge advocate at the trial.

(3) No person under orders for trial or under trial by any court-martial may, without the leave of the court, object to any person acting or professing to act as judge advocate.

(4) A British officer of not less than four years' service, hereinafter called the superintending officer, shall be appointed to superintend the proceedings of every court-martial composed of Native officers which is not attended by a judge advocate.

President.

"Article 88.—(1) At every court-martial the senior officer shall sit as president without special appointment as such.

(2) In case of the death or unavoidable absence of the president, the next senior officer shall take the place of the president, without special appointment as such, and the trial shall proceed if the court is still composed of not less than the smallest number of officers of which it is required by these Articles to consist.

Finding and sentence invalid without confirmation.

"Article 89.—No finding or sentence of a general, district or regimental court-martial shall be valid, except so far as it may be confirmed as provided by these Articles.

(Sec. 32.)

“ *Article 89A.*—(1) The following authorities shall have power to confirm the findings and sentences of general and district courts-martial :—

By whom findings and sentences may be confirmed or otherwise disposed of.

- (a) the Commander-in-Chief in India ;
- (b) the general officer of the Command, as regards troops under his command wherever stationed ;
- (c) the officer commanding a force not attached to a Command ;
- (d) any officer empowered in that behalf by warrant of the Commander-in-Chief in India or the general officer of the Command :

Provided that, except on active service or beyond the limits of India, no warrant issued under this article shall be deemed to empower an officer to confirm any finding or sentence in the case of an officer, medical subordinate or warrant officer, or a sentence of death, transportation or imprisonment for a term exceeding seven years in any case whatever.

(2) The provisions of article 73, clauses (2) and (3), shall, with the necessary modifications, apply to warrants issued under this article.

(3) The officer who convenes a regimental court-martial or the officer having authority to convene such court-martial, at the date of the submission of the finding and sentence thereof, shall have power to confirm the same.

“ *Article 89B.*—Subject to such restrictions as may be contained in any warrant issued under the last preceding article, the confirming officer may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial :

Power of confirming officer to mitigate, remit or commute sentence.

Provided that a sentence of transportation shall not be commuted to a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.”

32. For articles 90 to 97 (both inclusive) of the said Articles the following shall be substituted, namely :—

Substitution of new articles for articles 90 to 97.

“ *Extraordinary Courts-martial.*

“ *Article 90.*—The following authorities shall have power to convene a summary general court-martial, and such a court-martial may be convened—

Convening of summary general courts-martial.

- (a) in any place, whether within or beyond British India, by an officer empowered in this behalf by an order of the Governor General in Council or of the Commander-in-Chief in India or of the general officer of the Command ;—
- (b) by an officer commanding any detached portion of Her Majesty's troops upon active service when, in his opinion, it is not practicable, with

## (Sec. 32.)

due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

Composition  
of summary  
general  
courts-mar-  
tial.

" *Article 91.*—(1) A summary general court-martial shall consist of not less than three officers, who may be either British or Native or both British and Native officers, as the officer convening the court thinks fit.

(2) Such court may be convened and the proceedings thereof be recorded in accordance with the form in the Second Appendix to these Articles with such variations as the circumstances of each case may require :

Provided that the convening officer may, in respect of any such trial by such court, specially order the evidence, together with the prisoner's statement in defence, to be fully recorded in writing.

Powers of a  
summary  
general court-  
martial.

" *Article 92.*—A summary general court-martial shall have all the powers of a general court-martial, and, subject to any instructions contained in the order convening the court, its sentence shall be valid, and may be carried out forthwith in case it does not exceed that which a district court-martial is empowered to pass, and in any other case when confirmed by the authority convening the court.

Convening  
and constitu-  
tion of, and  
persons tri-  
able by, a  
summary  
court-mar-  
tial.

" *Article 93.*—(1) A summary court-martial may be held—

(a) by the commanding officer, being a combatant officer, of any corps or department of Her Majesty's Indian Forces, or of any detachment of those forces;

(b) by the commanding officer of any British corps or detachment to which Native combatant details subject to these Articles are attached.

(2) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceedings shall be attended throughout by two other officers, British or Native, who shall not, as such, be affirmed or sworn.

(3) The proceedings shall be recorded in the English language, and, when closed, shall be signed by the officer holding the trial, and by the officers attending thereat.

(4) A summary court-martial may try any person subject to these Articles and under the command of the officer holding the court, except an officer, medical subordinate or warrant officer.

(5) Any member of an army hospital corps may be tried by summary court-martial by any officer authorised in this behalf by the officer commanding the division, district, brigade or station to which the alleged offender belongs.

"Article 94.—A summary court-martial may try any offence punishable under any of these Articles :—

Offences triable by a summary court-martial.

Provided that when there is no grave reason for immediate action, and reference can, without detriment to discipline, be made to superior authority a summary court-martial shall not try without such reference any of the following offences, namely :—

(a) any offence punishable under any of the articles 7 to 23 (both inclusive), or articles 54 to 65 (both inclusive), or article 171 ;

(b) any offence against the officer holding the court.

"Article 95.—(1) A summary court-martial held by the commanding officer of a corps or department may pass any sentence which can be passed under these Articles, except a sentence of death or transportation, or of imprisonment for a term exceeding one year.

Powers of a summary court-martial.

(2) A summary court-martial held by any other officer may pass any sentence which can be passed under these Articles, except a sentence of death or transportation, or of imprisonment for a term exceeding six months.

"Article 96.—The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out at once :

Finding and sentence of a summary court-martial.

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of a superior military officer commanding not less than a corps.

"Article 97.—The proceedings of every summary court-martial shall, without delay, be forwarded to the officer commanding the district, or the division or brigade, within which the trial was held, or to the prescribed officer : and such officer or the Commander-in-Chief in India or the general officer of the Command, or, when the court is held in a force not attached to a Command, the officer commanding the force, may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings."

Transmission of proceedings of summary courts-martial.

33. For article 100 of the said Articles the following shall be substituted, namely :—

Substitution of new article for article 100. Arrest or confinement of accused.

"Article 100.—(1) Whenever any person subject to these Articles is accused of any offence which his commanding or other superior officer considers should be tried by court-martial, such officer shall order the accused to be placed in military custody until he can be tried by a court-martial or is discharged by proper authority.

(2) No such person shall be detained in military custody longer than is necessary for the purposes of justice."

Repeal of  
article 101.

34. Article 101 of the said Articles is hereby repealed.

Substitution  
of new  
article for  
article 102.

35. For article 102 of the said Articles the following shall be substituted, namely :—

Interpreter.

“ *Article 102.*—(1) An interpreter shall be appointed to every court-martial.

(2) If no duly qualified interpreter is available at the station or place where the court-martial sits, the officer appointing the court, or the officer commanding in the district or place within or at which the trial is to be held, shall appoint any competent person to perform the duty of interpreter.

(3) When no other qualified or competent person is available, the superintending officer, or, in the case of an European court, the president, shall perform the duty of interpreter.

(4) In the case of a trial by a summary court-martial, the officer holding the trial or one of the officers in attendance thereat may perform the duty of interpreter if no other competent interpreter is available.

(5) No interpreter shall, as such, have a vote upon any matter.”

Substitution  
of new  
articles for  
article 103.

36. For article 103 of the said Articles the following shall be substituted, namely :—

Dissolution  
of courts

“ *Article 103.*—(1) When a court-martial after the commencement of the trial is reduced below the smallest number of officers of which it is by these Articles required to consist, it shall be deemed to be dissolved.

(2) If, on account of the illness of the prisoner before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this article, the prisoner may be tried again.

Power to  
clear court.

“ *Article 103A.*—The president of a court-martial may, on any deliberation among the members, cause the court to be cleared of all other persons.

Power to  
view place.

“ *Article 103B.*—The court may, when it thinks fit, view any place.

Amendment  
of article  
104.

37. In article 104 of the said Articles the words “general court-martial appointed under an Order in Council, or of any other” and the words and figures “under article 96 or 97” shall be omitted.

Amendment  
of article  
107.

38. In article 107 of the said Articles, for the words “courts-martial, other than courts-martial appointed under an Order in Council, or summary” the word “ordinary” shall be substituted.



(Secs. 39-42.)

39. After article 108 of the said Articles the following article shall be inserted, namely :—

“ *Article 108A.*—At a summary court-martial the interpreter shall make affirmation or oath down to the words ‘published by authority’ only.”

40. Article 114 of the said Articles is hereby repealed.

41. For article 116 of the said Articles the following shall be substituted, namely :—

“ *Article 116.*—(1) A prisoner charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A prisoner charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(3) A prisoner charged before a court-martial with any one of the following offences, that is to say, theft, dishonest misappropriation or conversion, criminal breach of trust, or dishonestly receiving or retaining stolen property, may be found guilty of any other of those offences.

(4) A prisoner charged before a court-martial with any other offence under these Articles may, on failure of proof of an offence having been committed under circumstances involving a more severe punishment, be found guilty of the same offence as having been committed under circumstances involving a less severe punishment.”

42. For article 117 of the said Articles the following shall be substituted, namely :—

“ *Article 117.*—(1) When any person subject to these Articles has been convicted by a court-martial of any offence, such court-martial shall enquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial or by a criminal court, and shall further enquire into and record the general character of such person.

(2) Evidence received under this article may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to prove the signature to such certified extracts, nor shall it be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the commanding officer holding the trial may, if he thinks fit, record any previous convictions against the offender and his general character, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this article.

Insertion of new article after article 108.

Affirmation or oath of interpreter.

Repeal of article 114.

Substitution of new article for article 116. Conviction of one offence permissible on charge of another.

Substitution of new article for article 117. Evidence of previous convictions and general character.

(Secs. 43-44.)

General rule  
as to evi-  
dence.

"Article 117A.—Subject to the provisions of the last foregoing article, the Indian Evidence Act, 1872,<sup>1</sup> subject to such modifications thereof and to 1 of 1 such additional rules of evidence as the Governor General in Council may, by notification, direct, shall apply to all proceedings before a court-martial."

Substitution  
of new  
articles for  
articles 119  
and 120.

43. For articles 119 and 120 of the said Articles the following shall be substituted, namely :—

Majority  
requisite to  
sentence of  
death.

"Article 119.—No sentence of death shall be passed by any court-martial without the concurrence of two-thirds at the least of the members of the court.

Revision of  
finding or  
sentence.

"Article 120.—(1) The finding or sentence of any court-martial may be once revised by order of the officer authorized to dispose of the proceedings, and, on such revision, the court, if so directed by him, may take additional evidence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers shall be unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided it still consists of the smallest number of officers of which such court is by these Articles required to consist."

Substitution  
of new  
articles for  
articles 122  
to 124.

44. For articles 122 to 124 (both inclusive) of the said Articles the following shall be substituted, namely :—

Summoning  
witnesses and  
production of  
documents.

"Article 122.—(1) The judge advocate in the case of a general court-martial, and the officer ordering the trial in the case of any other court-martial, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer actually commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

(4) When a witness is required to produce any particular document or other

<sup>1</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 222.

## (Sec. 45.)

thing in his possession or power, the summons shall describe it with convenient certainty.

(5) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872,<sup>1</sup> sections 123 and 124, or to apply to any letter, post-card, telegram or other document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any district magistrate, chief presidency magistrate, high court or court of session, wanted for the purposes of any court-martial, such magistrate or court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such magistrate or court may direct.

(7) If any such document is, in the opinion of any other magistrate or of any commissioner of police, or district superintendent of police, wanted for any such purpose, he may require the postal or telegraph department, as the case may be, to cause search to be made for and to detain such document pending the orders of any such district magistrate, chief presidency magistrate or court.

“Article 123.—(1) Any witness duly summoned, and any person who commits any contempt of court in the presence of a court-martial, or any offence described in article 56, 67 or 68, shall, if subject to these Articles, be proceeded against as the court may direct. Contempts of court.

(2) If any such witness or person is not so subject, the president of the court-martial may certify the offence under his hand to the court of any magistrate within the local limits of whose jurisdiction it was committed, and the magistrate may thereupon take cognizance of the case, and, after hearing anything which the accused may desire to say, dispose of it as if the offence had been committed in a proceeding in the court of such magistrate.

“Article 124.—(1) No president or member of a court-martial, no judge advocate or superintending officer, no party to any proceeding before a court-martial or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from, a court-martial, be liable to arrest under civil or revenue process. Privileges of persons attending courts-martial.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.”

45. Articles 125 to 129 (both inclusive) of the said Articles are hereby repealed. Repeal of articles 12 to 129.

<sup>1</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 222.

Amendment  
of article  
130.  
Substitution  
of new  
article for  
article 131.  
Dismissal.

46. In article 130, clause (d), sentence 1, of the said Articles, for the words "one year" the words "two years" shall be substituted.

47. For article 131 of the said Articles the following shall be substituted, namely:—

"Article 131.—Dismissal from the service may accompany any other sentence passed by a court-martial."

48. In article 132 of the said Articles, after the word "reduced" the words "to a lower grade or" shall be inserted.

49. For articles 133 to 137 (both inclusive) of the said Articles the following shall be substituted, namely:—

"Article 133.—In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and, when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

"Article 134.—A non-commissioned officer sentenced by court-martial to any of the punishments specified in the second paragraph of article 132 shall be deemed to be reduced to the ranks.

"Article 135.—On a conviction of any offence, a general, summary general or district court-martial may, in addition to any other punishment which it is empowered to award, sentence the offender to forfeit all advantage as to additional pay and claim to pension on discharge which might otherwise have accrued from the length or nature of his former service, or to forfeit all such advantage absolutely, whether it has accrued from former service or may accrue from future service, or to forfeit service for the purpose of promotion, increased pay or pension or any other prescribed purpose, or to forfeit any military decoration or reward.

"Article 136.—Whenever a person subject to these Articles is convicted by a court-martial, his good-conduct pay shall, subject to any rules or orders which may from time to time be made with the previous sanction of the Governor General in Council, cease.

"Article 137.—On a conviction for any offence, if the offender is sentenced to dismissal from the service, or if his sentence involves such dismissal, he may further be sentenced to forfeit, if the court shall so direct,—

(a) all or any arrears of pay and allowances or other public money due to him at the time of his dismissal, or

Insertion of  
words in  
article 132.  
Substitution  
of new  
articles for  
articles 133  
to 137.  
Solitary  
confinement.

Reduction  
of non-  
commissioned  
officers to  
ranks.  
Forfeiture of  
pay and  
pension.

Stoppage of  
good conduct  
pay on  
conviction.

Forfeiture of  
arrears of  
pay.

(Secs. 50-59.)

(b) such portion thereof as may be required to make good any proved loss or damage arising out of his offence."

50. The first paragraph of article 183 of the said Articles, and the word "and" at the beginning of the second paragraph of the same article, are hereby repealed. Amendment of article 183.

51. In article 139 of the said Articles, for the words "in the case of an officer, two-thirds, or, in the case of any other person, one-half, of his" the words "one-half of the offender's" shall be substituted. Amendment of article 139.

52. Articles 142 to 149 (both inclusive) of the said Articles are hereby repealed. Repeal of articles 142 to 149.

53. In articles 150 and 151 of the said Articles, after the words "the offender shall" the words "as soon as may be convenient" shall be inserted, and for the words "the nearest jail" the words "a jail" shall be substituted. Amendment of articles 150 and 151.

54. To the last-named article the following proviso shall be added, namely:— Addition to article 151.

"Provided that, in the case of a sentence of such imprisonment for a period not exceeding three months, the confirming or superior authority or, in the case of a summary court-martial, the commanding officer holding the trial may direct that the sentence shall be undergone in military custody."

55. To article 152 of the said Articles the words "Subject to the control of the Commander-in-Chief in India" shall be prefixed; and for the words "the Commander-in-Chief of a Presidency" the following words shall be substituted, namely:—"the general officer of the Command." Amendment of article 152.

56. To the second paragraph of the last-mentioned article the words "Subject as aforesaid" shall be prefixed, and in the same paragraph for the words "any Presidency" the words "a Command" shall be substituted. Further amendment of same article.

57. In article 155 of the said Articles, after the words "from the date of such sentence" the words "or, if an appeal be preferred against such sentence and fail, from the date of the disposal of such appeal," shall be inserted. Insertion of new words in article 155.

58. To the last-mentioned article the following shall be added, namely:—

"Provided that on active service any such person may, by order of the officer empowered under these Articles to confirm or otherwise dispose of the proceedings of the trial, be retained to serve in the ranks, and his service therein shall be reckoned as part of his term of transportation or imprisonment." Addition to same article.

59. Articles 156 to 159 (both inclusive) of the said Articles are hereby repealed. Repeal of articles 156 to 159.

(Secs. 60-62.)

Substitution  
of new article  
for article  
160.

Pardons and  
remissions.

60. For article 160 of the said Articles the following shall be substituted, namely :—

“Article 160.—When any person subject to these Articles has been convicted by a court-martial of any offence,—

(a) the Governor General in Council, or,

(b) when the person has been convicted of any offence other than a civil offence, the Commander-in-Chief in India or the general officer of the Command,

may—

(1) pardon the person;

(2) remit wholly or in part any punishment awarded to him;

(3) order the restoration to him of any service or other advantage forfeited under his sentence, or

(4) re-admit him to the service when he has been dismissed therefrom:

Provided that the general officer of the Command shall not exercise the powers conferred by this section in respect of any person, unless—

(1) the person was under his authority when sentenced; and

(2) the person is still in the service, or, if the person has been dismissed from the service, the corps or department from which he was dismissed has since continued under the authority of that officer.”

Amendment  
of article  
161.

61. In article 161 of the said Articles the words “or to the Government of Fort St. George, or to the Government of Bombay,” shall be repealed; and for the words “Commander-in-Chief of any Presidency or of the officer commanding any force not attached to a Presidency” the following words shall be substituted, namely :—“Commander-in-Chief in India or the general officer of the Command, or of the officer commanding any force not attached to a Command.”

Addition of  
new article  
after article  
161.

62. After article 161 of the said Articles the following shall be inserted, namely :—

“*Preservation of Proceedings.*

Preservation  
of proceed-  
ings of  
courts-mar-  
tial.

“Article 161A.—(1) The proceedings of all general courts-martial shall be preserved by the judge advocate general for not less than seven years, and the proceedings of summary general courts-martial and district courts-martial for not less than three years, from the date of the confirmation of the finding and sentence.

(2) The proceedings of regimental and summary courts-martial shall be preserved for three years with the records of the corps or department to which the prisoner belonged.

(Secs. 63-65.)

(3) Every person tried by a court-martial shall be entitled, on demand at any time after the confirmation of the finding and sentence where such confirmation is required, and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, including the proceedings upon revision, if any, upon payment for the same at the prescribed rate."

63. For article 162 of the said Articles the following shall be substituted, namely :—

"Article 162.—(1) When any person subject to these Articles has been absent without due authority from his duty for a period of sixty days, a court of enquiry shall, as soon as practicable, be assembled, and, upon affirmation or oath administered in the prescribed manner, shall enquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessities; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the Court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

Substitution of new article for article 162. Enquiry on absence of person subject to articles.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, the record shall have the legal effect of a conviction of desertion.

(3) If the person declared absent surrenders or is apprehended, the record or a copy thereof purporting to bear the signature of the officer having the custody of the court-martial book shall, on the trial of the person for desertion, be presumptive evidence of the facts therein recorded; and, on proof of the identity of the prisoner with the person therein mentioned, he may be found guilty of desertion and of the deficiency, if any, therein recorded."

64. For the last paragraph of article 163 of the said Articles the following shall be substituted, namely :—

"Such recommendation, duly confirmed by the Commander-in-Chief in India, or by the general officer of the Command, or the officer commanding any force not attached to a command to which he belongs, or by any general officer under whose command the person is serving, shall entitle him to receive such arrears and reckon service accordingly."

Amendment of article 163.

65. For article 164 of the said Articles the following shall be substituted, namely :—

"Article 164.—The Commander-in-Chief in India, the general officer of the Command, the officer commanding any force not attached to a command, and

Substitution of new article for article 164. Reduction to lower grade or ranks.

the officer commanding any district or division or brigade, shall respectively have power to reduce to a lower grade or to the ranks any non-commissioned officer under his command."

Amendment  
of article  
165.

66. In article 165 of the said Articles, for the words "No such minor punishment shall be awarded by a court-martial," to the end of the article the following shall be substituted, namely:—

"Unless otherwise specially provided by the said Commander-in-Chief, no Native officer, medical subordinate or warrant officer shall be liable to any such minor punishment.

"Good-conduct pay shall not necessarily be forfeited on the infliction of a minor punishment, but forfeiture thereof may be awarded as a substantive punishment, by order of the commanding officer, as may from time to time be prescribed in the General Orders of the Commander-in-Chief in India.

"Forfeiture of good-conduct pay may be awarded in addition to any other minor punishment."

Amendment  
of article  
166.

67. In article 166 of the said Articles, the words "the Governor of Fort St. George in Council, the Governor of Bombay in Council, or any other Local Government" shall be omitted.

Amendment  
of article  
168.

68. In article 168 of the said Articles, for the words "the Commander-in-Chief of the Presidency" the words "the Commander-in-Chief in India or the general officer of the Command" shall be substituted.

Amendment  
of article  
169.

69. In the second paragraph of article 169 of the said Articles, for the words "warrant officer" the words "non-commissioned officer" shall be substituted.

Repeal of  
part of  
article 170.

70. The second and third paragraphs of article 170 of the said Articles are hereby repealed.

Substitution  
of new  
articles for  
articles 171  
to 175.

71. For articles 171 to 175 (both inclusive) of the said Articles the following shall be substituted, namely:—

Military  
jurisdiction  
with respect  
to civil  
offences.

"Article 171.—Every person subject to these Articles who at any place beyond British India commits any civil offence shall be deemed to be guilty of an offence against military law, and if charged therewith under this article shall, subject to the provisions of these Articles, be liable to be tried for the same by court-martial at any place, whether within or beyond British India, and on conviction to be punished as follows, that is to say:—

(a) if the offence is one which would be punishable under the law of British India with death or with transportation, or with imprisonment for a term exceeding three years, he shall be liable to suffer



## (Sec. 71.)

any punishment assigned for the offence by the law of British India; and

- (b) in other cases, he shall be liable to suffer any punishment assigned for the offence by the law of British India or such punishment as might be awarded to him in pursuance of these Articles in respect of an act to the prejudice of good order and military discipline.

“*Article 172.*—The Governor General in Council may, by notification, extend the last foregoing article to civil offences or any class of those offences committed by a person subject to these Articles when on active service in British India, and may cancel any such notification.

Extension of article 171 to certain civil offences.

1890. “*Article 173.*—Every person subject to these Articles who, whether within or beyond British India, commits or attempts to commit or abets the commission of any of the following offences against any person subject to military law, that is to say, murder, culpable homicide or any offence punishable under any of the sections 323 to 335 (both inclusive) or section 506 of the Indian Penal Code,<sup>1</sup> shall be deemed to be guilty of an offence against military law, and if charged under this article with any such offence shall, subject to the provisions of these Articles, be liable to be tried by court-martial at any place whether within or without British India, and on conviction shall be liable to suffer any punishment assigned for the offence by the said Code.

Certain offences when triable by military law.

“*Article 174.*—When under any of the foregoing Articles a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in military custody.

Jurisdiction over certain offences.

“*Article 175.*—(1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the convening authority or the prescribed military authority at his option either to deliver over the offender to the nearest magistrate to be proceeded against according to law or to postpone proceedings pending a reference to the Governor General in Council.

Power of criminal court to require delivery of offender.

“(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Governor General in Council, whose order upon such reference shall be final.”

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

Substitution  
of new  
articles for  
articles 176  
to 179.

72. For articles 176 to 179 (both inclusive) of the said Articles the following shall be substituted, namely :—

Property of  
deceased  
persons,  
deserters and  
lunatics.

“TITLE VI.—PROPERTY OF DECEASED PERSONS AND DESERTERS.

“Article 176.—The following rules are enacted respecting the disposal of the property of every person who belongs to a class subject to these Articles who dies, is killed in the field or deserts :—

(1) The commanding officer shall secure all the moveable property that is on the spot, and cause an inventory thereof to be made, and draw any pay and allowances due to the deceased or deserter.

(2) In the case of a deceased person who has left in a Government Savings Bank (including any Post Office Savings Bank, however named), a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith notwithstanding anything in any departmental rules; and, after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental debts (if any) of the deceased, the commanding officer shall deliver over the property and the amount of the deposit (if any) received under clause (2) of this article to that representative.

(4) In the case of a deceased person whose estate is not dealt with under clause (3) of this article, and in the case of any deserter, the commanding officer shall cause the property to be sold by public auction, and shall pay the regimental debts and other debts in camp or quarters (if any), and in the case of a deceased person the expenses of his funeral ceremonies, from the proceeds of the sale and the amount of the deposit (if any) received under clause (2) of this article.

(5) The surplus, if any, shall in the case of a deceased person be paid to his representative, if any, or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed officer.

(6) In the case of the sale of the effects of a deserter the amount remaining in the hands of the commanding officer shall be forthwith remitted to the prescribed officer.

Disposal of  
certain  
property

“Article 177.—Property deliverable and money payable to the representative of a deceased person under the last foregoing article may, if the total value

## (Sec. 73.)

or amount thereof does not exceed one thousand rupees, and if the prescribed officer thinks fit, he delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title ; and such delivery or payment shall be a full discharge to those ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money ; but nothing in this article shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

without  
production  
of probate,  
etc.

“ *Article 178.*—A person shall be deemed to have deserted within the meaning of article 176 who has been convicted of desertion, or who has been illegally absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.

Meaning of  
desertion in  
article 176.

“ *Article 179.*—The provisions of the last mentioned article shall, so far as they can be made applicable, apply in the case of a person subject to these Articles becoming insane, such allowance being made for his support as is authorised by the Military Lunatics Act, 1877.”<sup>1</sup>

Application  
of Article 176  
to lunatics.

7.

73. For Part III of the said Articles the following shall be substituted, namely :—

Substitution  
of new Part  
for Part III.

## “ PART III.—MISCELLANEOUS.

“ *Article 180.*—When any person subject to these Articles has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under article 165 or 166, he shall not be liable to be again tried for the same offence by a court-martial or dealt with summarily in respect of it under either of the said Articles.

Prohibition  
of second  
trial.

“ *Article 181.*—(1) No person subject to these Articles shall, so long as he belongs to Her Majesty's Indian Forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

Exemption  
from arrest  
for debt.

(2) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this article, and may by warrant under his hand discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

<sup>1</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 71.

(Sec. 73.)

(3) For the recovery of such costs no fee whatever shall be payable to the court by the complainant.

Property  
exempted  
from attach-  
ment.

"Article 182.—Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to these Articles, nor any animal used by him for the discharge of his duty, shall be seized; nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

Application  
of the last  
two foregoing  
articles to  
reservists.

"Article 183.—Every person belonging to the Indian Reserve Forces shall, when called out for or engaged upon or returning from training or service, as an officer or soldier, be entitled to all the privileges accorded by the two last foregoing articles to a person subject to these Articles.

Priority of  
hearing by  
courts of  
cases in  
which Native  
officers and  
soldiers are  
concerned.

"Article 184.—(1) On the presentation to any court by or on behalf of any officer or soldier subject to these Articles of a certificate from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such officer or soldier, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper military authority must state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee whatever shall be payable to the court in respect of the presentation of any such certificate or in respect of any application by or on behalf of any such officer or soldier for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such officer or soldier on his application, without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to the nearest officer commanding a corps, whose decision shall be final.

Capture of  
deserters.

"Article 185.—(1) Whenever any person subject to these Articles deserts, the commanding officer of the corps, department or detachment to which he

(Sec. 73.)

belongs shall give written information of the desertion to such civil, political or police authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose capture a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, to military custody.

(2) Such authorities shall also, by such means as appear to them best adapted for the purpose, prevent persons reasonably believed to be subject to these Articles from travelling through the areas subject to their jurisdiction, unless on duty, or furnished with a certificate of leave or discharge.

(3) Any police-officer may arrest, without warrant, any person reasonably believed to be subject to these Articles and to be travelling without authority, and shall bring him without delay before the nearest magistrate, or the nearest military commanding officer when no magistrate is readily accessible, to be dealt with according to law.

“ *Article 186.*—Whenever any person subject to these Articles, who is accused of any military offence, is within the jurisdiction of any civil, political or police officer, such officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

Apprehension of military offenders.

“ *Article 187.*—In any proceeding under these Articles, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

Presumption as to signatures.

“ *Article 188.*—(1) The Governor General in Council may direct that for the purposes of these Articles—

Portions of the forces under an Army Command.

(a) any portion of Her Majesty's Indian Forces belonging to a Command shall, when serving beyond the ordinary limits of the Command, continue subject to the authority of the general officer of the Command; or

(b) any portion of those forces not belonging to a Command shall be attached to a Command and shall be subject to the authority of the general officer of the Command.

(2) Except as may be directed under clause (1) of this article, any portion of the said forces shall, when serving in a Command, be for the purposes of these Articles subject to the authority of the general officer of that Command.

(Sec. 74.)

Saving of  
authority of  
Commander-  
in-Chief in  
India.  
Power to  
make rules.

"Article 189.—Nothing in these Articles shall be deemed to affect the authority conferred on the Commander-in-Chief in India by any Act of Parliament or by Royal Warrant or Commission.

"Article 190.—(1) The Governor General in Council may, by notification, make rules consistent with these Articles to regulate the procedure of courts-martial and officers, military, civil or political, having any jurisdiction or authority under these Articles, and for the purpose of carrying these Articles into execution, so far as relates to the investigation, trial and punishment of offences triable under them.

(2) Rules under this article may provide among other matters for the following :—

- (a) the assembly and procedure of courts of enquiry ;
- (b) the convening and constituting of courts-martial ;
- (c) the adjournment, dissolution and sittings of courts-martial ;
- (d) the procedure to be observed in trials by courts-martial ;
- (e) the confirmation and revision of the findings and sentences of courts-martial ;
- (f) the carrying into effect sentences of courts-martial ;
- (g) the forms of orders to be made under the provisions of these Articles relating to courts-martial, transportation or imprisonment.

(3) The Governor General in Council may by any such rule confer on any court-martial or officer any power (other than a power to try an accused person or pass a sentence) conferred on a court of original jurisdiction by the Code of Criminal Procedure, 1882.<sup>1</sup>

X of 11

Powers to  
apply  
Articles to  
certain forces  
under the  
Government  
of India

"Article 191.—(1) The Governor General in Council may, by notification, apply all or any of the provisions of these Articles to any force raised and maintained in India under the authority of the Governor General in Council, and may cancel or modify any such notification.

(2) While any of the provisions of these Articles apply to any such force, the Governor General in Council may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of those provisions shall be exercised or performed in respect to that force."

Addition  
of Second  
Appendix to  
Articles.

74. After the Appendix to the said Articles the Second Appendix set out in the Schedule to this Act shall be added.

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380,

(The Schedule.)

## THE SCHEDULE

(See section 74.)

## THE SECOND APPENDIX.

(See article 91.)

## FORM FOR ASSEMBLY AND PROCEEDINGS OF SUMMARY GENERAL COURT-MARTIAL.

*Proceedings.*

he place \* At , this day of 18 .

WHEREAS it appears to me that the persons named in the annexed schedule, and being subject to military law, have committed the offences in the said schedule mentioned, and I, the undersigned, an officer now in command of on active service, am of opinion that it is not practicable, having due regard to the public service, to convene an ordinary Court-Martial to try such offences († or to delay the trial for reference to a superior qualified officer), I hereby convene a Summary General Court-Martial to try the said persons, and to consist of—

A.—Order  
convening the  
Court.

except  
ig  
not a  
iding  
nd is  
nk of  
ficer.

## PRESIDENT :

Rank.

Name.

Regiment.

## MEMBERS.

Rank.

Name.

Regiment.

I certify that the above Court assembled on the day of and duly tried the persons named in the said schedule, and that the plea, finding and sentence in the case of each such person were as stated in the third and fourth columns of that schedule.

B.—Certificate  
of President as  
to Proceedings.

Signed this

day of

18 .

C

D

*President of the Court-Martial.*

*(The Schedule.)*

C.—Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the above schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences; and I am of opinion, with reference to the sentences of summary punishment mentioned in the schedule, that imprisonment cannot, with due regard to the public service, be carried into execution (\*and I am of opinion that it is not practicable, having due regard to the public service, to delay the cases for confirmation by any superior qualified authority).

Omit, except where under rules it is ordinarily the duty of the confirming officer to reserve the case

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

E \_\_\_\_\_ F \_\_\_\_\_ ,

*Field (or General) Officer in the Force (or Commanding).*

D.—Confirmation of reserved sentences.

I have dealt with the reserved findings and sentences in the manner stated in the last column of the schedule, and, subject to what I have there stated, I hereby confirm the said reserved findings and sentences.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

G \_\_\_\_\_ H \_\_\_\_\_ ,

*General (Field) Officer in the Force.*

E.—Confirmation of sentence of death or penal servitude.

Subject to what I have stated in the last column of the schedule, I hereby confirm the (finding and) sentence of death in the case of \_\_\_\_\_ and of transportation in the case of \_\_\_\_\_ († and in the case of the above sentences of death I am of opinion that by reason of ‡ it is not practicable, having due regard to the public service, to delay the case for confirmation by any qualified officer superior to myself).

† Omit, where confirmed by officer in chief Command.  
‡ State, according to the circumstances, the nature of the country, or the great distance, or the operations of the enemy.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 18 .

J \_\_\_\_\_ K \_\_\_\_\_ ,

*General (Field) Officer in Chief Command of the Forces*



## (The Schedule.)

## SCHEDULE.

Date. \_\_\_\_\_ 18 . No. \_\_\_\_\_

Name of alleged Offender.*	Offence charged.	Plea	Finding and if convicted sentence.†	How dealt with by confirming officer.
1	2	3	4	5
Ram Bux (Bunniah) .	Offence against person of inhabitant of country.	Guilty .	Guilty. H. L. imprisonment for —	Confirmed. I remit— E.....F.....
262, Sepoy Jhunda Singh, 167th Regiment	Breaking into house in search of plunder.	Not guilty .	Guilty. Two months' H. L. imprisonment.	Not confirmed. E.....F.....
561, Sowar Hossein Khan, 16th Regiment.	Drunk on post .	Not guilty .	Guilty. Death. Recommended to mercy.	Reserved, or confirmed, but commuted to H. L. imprisonment for— E.....F..... Confirmed, but commuted to — years' transportation. J.....K.....
Person accompanying force (name unknown), white jacket and trousers, scar on right cheek.	Impeding provost-marshal.	Not guilty .	Not guilty.	
Sepoy in uniform of 67th Regiment (name unknown).	Offence against property of inhabitant of country.	Not guilty .	Guilty. H. L. imprisonment for—	Reserved. E..... F..... Confirmed. G.....H.....

P. Q.,  
Convening Officer.C. D.,  
President.

\* If the name of the person charged is unknown, he may be described as unknown, with such addition as will identify him.

† Recommendation to mercy to be inserted in this column.

*Repealing and Amending (Army). [1894: Act XIII.  
(Secs. 1-2. The First Schedule.—Enactment repealed.)*

ACT No. XIII OF 1894.<sup>1</sup>

[12th October, 1894.]

An Act to amend certain enactments relating to the Army.

WHEREAS it is expedient to amend certain enactments relating to the Army in manner hereinafter appearing; It is hereby enacted as follows:—

Title and  
commence-  
ment.

1. (1) This Act may be called the Repealing and Amending (Army) Act, 1894; and

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, fix in that behalf.<sup>2</sup>

Repeal and  
amendment  
of enact-  
ments.

2. (1) The enactment specified in the first schedule is hereby repealed to the extent mentioned in the third column thereof.

(2) The enactments specified in the second schedule are hereby modified to the extent and in the manner mentioned in the third column thereof.

### THE FIRST SCHEDULE.

#### ENACTMENT REPEALED.

Number and year.	Title.	Extent of repeal.
1	2	3

#### *Act of the Governor General in Council.*

XI of 1877	Military Lunatics Act, 1877.	In sections 4 and 6 <i>the words</i> divisions or.  In section 7 <i>the word</i> division.
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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 131; for Report of the Select Committee, see *ibid*, p. 159; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 227, 233 and 239.

The Military Lunatics Act, 1877, so far as it is unrepealed, was declared in force in Upper Burma by the Burma Laws Act, 1898 (XIII of 1898).

<sup>2</sup> The 1st April, 1895, see Notification No. 1019, dated 2nd November, 1894, Gazette of India, 1894, Pt. I, p. 603.

(The Second Schedule. Enactments amended.)

## THE SECOND SCHEDULE.

## ENACTMENTS AMENDED.

Number and year	Title or subject.	Amendments
1	2	3
<i>Act of the Governor General in Council.</i>		
<sup>1</sup> XI of 1877	Military Lunatics Act, 1877	In section 3, <i>for</i> Act for punishing Mutiny and Desertion and for the better payment of the Army and their quarters for the time being in force <i>read</i> Army Act; <i>for</i> military regulations of the Presidency to which he belongs <i>read</i> military regulations in force for the time being; <i>for</i> one of the Surgeons-General, either of the British Forces or of the Indian Medical Service, according to the Presidency and the service to which the said lunatic belongs <i>read</i> the Principal Medical Officer of Her Majesty's Forces in India, the Surgeon-General with the Government of India, the Surgeon-General with the Government of Madras, the Surgeon-General with the Government of Bombay, or the Principal Medical Officer of the "Command" to which the said lunatic belongs; <i>and for</i> such Surgeon-General <i>and</i> the Surgeon-General <i>read</i> such Principal Medical Officer or Surgeon-General.  In sections 3, 6 and 7, <i>for the words</i> local military regulations, <i>wherever they occur, read</i> military regulations.
<i>Regulations of the Madras Code.</i>		
<sup>2</sup> VII of 1808	Power to establish martial law.	In the title, in the first place in which the words occur in the preamble, in section 2 and in section 4, <i>for</i> Governor in Council <i>read</i> Governor General in Council.
<sup>3</sup> VIII of 1817	Sepoy Mālguzars	In the title, <i>for</i> on the military establishment of the Presidency of Fort St. George <i>read</i> in the Madras Command.  In section 9, clause <i>first, for</i> on the military establishment under the Presidency of Fort St. George <i>read</i> in the Madras Command.

<sup>1</sup> Printed, General Acts, Vol. III, Ed. 1893, p. 71.<sup>2</sup> Printed, Madras Code, Ed. 1884, p. 44.<sup>3</sup> Printed, Madras Code, Ed. 1893, p. 75.

ACT No. I OF 1895.<sup>1</sup>

[4th January, 1895.]

An Act to amend the Presidency Small Cause Courts  
Act, 1882.<sup>2</sup>

WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, XV of 1882 ;<sup>2</sup> It is hereby enacted as follows :—

Title and  
commence-  
ment.

1. (1) This Act may be called the Presidency Small Cause Courts Act, 1895;  
and

Amendment  
of section 6,  
Act XV,  
1882.

(2) It shall come into force on the first day of April, 1895.

2. In section 6 of the Presidency Small Cause Courts Act, 1882,<sup>2</sup> hereinafter XV of 1 referred to as “the said Act,” after the words “Code of Civil Procedure” the following shall be added, namely :—

“and to be a Court subordinate to the High Court within the meaning of section 6 of the Legal Practitioners Act, 1879.”

Amendment  
of section 7,  
Act XV,  
1882.

3. (1) For the proviso to the first paragraph of section 7 of the said Act the following shall be substituted, namely :—

“Provided that no person shall be appointed to be a Judge of such Court, or be authorised to exercise the powers of a Judge of such Court, unless he is—

(a) an advocate of a High Court of Judicature established under the Indian High Courts Act, 1861,<sup>3</sup> or 24 & 25 c. 104.

(b) a vakil or attorney of any such High Court, or

(c) a Judge of a Court of Civil Judicature of not less than five years' standing :

and that not less than one-third of the persons so appointed, including the Chief Judge, shall be advocates of one of the said High Courts.”

(2) The last paragraph of section 7 of the said Act is hereby repealed.

Insertion of  
new section  
after section  
8, Act XV,  
1882.

4. After section 8 of the said Act the following shall be inserted, namely :—

\* \* \* \* \*

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1893, Pt. V, p. 9; for Report of the Select Committee, see *ibid*, 1894, Pt. V, p. 103; for Proceedings in Council, see *ibid*, 1893, Pt. VI, pp. 4 and 76; *ibid*, 1894, Pt. VI, pp. 2 and 209; *ibid*, 1895, Pt. VI, p. 29.

<sup>2</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 590.

<sup>3</sup> Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 713.

<sup>4</sup> A new section 8A has since been substituted in Act XV of 1882, for the section inserted by this Act, see s. 3 of the Presidency Small Cause Courts Act, 1899 (III of 1899).

(Secs. 5-6.)

5. For section 9 of the said Act the following shall be substituted, namely :—

Substitution of new section for section 9, Act XV, 1882, and temporary continuance of existing procedure and practice. Procedure and practice of Small Cause Court.

“ 9. (1) The High Court may from time to time, by rules having the force of law,—

(a) prescribe the procedure to be followed and the practice to be observed by the Small Cause Court either in supersession of or in addition to any provisions which were prescribed with respect to the procedure or practice of the Small Cause Court on or before the thirty-first day of December, 1894, in or under this Act or any other enactment for the time being in force, and

(b) cancel or vary any such rule or rules.

“ Rules made under this section may provide, among other matters, for the exercise by one or more of the Judges of the Small Cause Court of any powers conferred on the Small Cause Court by this Act, or any other enactment for the time being in force.

“(2) The law, and any rules and declarations made, or purporting to be made, thereunder, with respect to procedure or practice, in force or treated as in force in the Small Cause Court on the thirty-first day of December, 1894, shall be in force, unless and until cancelled or varied by rules made by the High Court under this section.”

6. To section 14 of the said Act the following shall be added, namely :—

“ *Explanation.*—For the purposes of this section an application for possession under section 41 shall be deemed to be a suit.”

Addition to section 14, Act XV, 1882.

7. To section 18 of the said Act the following proviso shall be added immediately before the first *explanation*, namely :—

“ Provided that where the cause of action has arisen wholly within the local limits aforesaid, and the Court refuses to give leave for the institution of the suit, it shall record in writing its reasons for such refusal.”

Addition to section 18, Act XV, 1882.

8. After section 18 of the said Act the following shall be added, namely :—

“ 8A. The Small Cause Court may allow a plaintiff at or before the first hearing of a suit in which a joint and several liability is alleged on a cause of action arising either wholly or in part within the local limits of the

Addition to section 18, Act XV, 1882. Plaintiff may abandon suit against defendant resi-

dent out of  
jurisdiction.

jurisdiction of the Court to abandon the suit as against any defendant who does not reside or carry on business or personally work for gain within such local limits, and to sue for a decree against such defendants only as do so reside, carry on business or personally work for gain."

Addition to  
section 19,  
Act XV,  
1882.

9. To section 19 of the said Act the following shall be added, namely :—

Return of  
plaint.

" 9A. Whenever the Court finds that for want of jurisdiction it cannot finally determine the question at issue in the suit, it may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the question. When the Court so returns a plaint, it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure<sup>1</sup> and make such order with respect to costs as it may think just, and the Court shall for the purposes of the Indian Limitation Act, 1877,<sup>2</sup> be deemed to have been unable to entertain the suit by reason of defect of jurisdiction. When a plaint so returned is afterwards presented to a High Court, credit shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are credited to the Government."

Amendment  
of section 21  
Act XV,  
1882.

10. In section 21 of the said Act, after the words "or value thereof" the words "and all suits whereof the amount or value of the subject-matter exceeds one thousands rupees" shall be inserted.

Amendment  
of section 22,  
Act XV,  
1882

11. In section 22 of the said Act, for the words "two thousand" the words "one thousand" shall be substituted.

Repeal of  
Act XV,  
1882, section  
23, and sec-  
ond schedule.

12. Section 23 of and the second schedule to the said Act, are hereby repealed.

Substitution  
of new Chap-  
ter for Chap-  
ter VI, Act  
XV, 1882.

13. For Chapter VI of the said Act the following shall be substituted, namely :—

#### " CHAPTER VI.

##### " NEW TRIALS AND APPEALS.

General final-  
ity of decrees  
and orders of  
Small Cause  
Court.

" 37. Save as otherwise provided by this Chapter or by any other enactment for the time being in force, every decree and order of the Small Cause Court in a suit shall be final and conclusive.

New trial of

" 38. Where a suit has been contested, the Small Cause Court may, on the

<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 75.

application of either party, made within eight days from the date of the decree or order in the suit (not being a decree passed under section 522<sup>1</sup> of the Code of Civil Procedure), order a new trial to be held, or alter, set aside or reverse the decree or order, upon such terms as it thinks reasonable, and may, in the meantime, stay the proceedings.

*Explanation.*—Every suit shall be deemed to be contested in which the decree is made otherwise than by consent of or in default of appearance by the defendant.

“39. (1) In any suit instituted in a Small Cause Court in which the amount or value of the subject-matter exceeds the sum of one thousand rupees, the defendant or any one of the defendants may, before the day fixed by the summons for the appearance of the defendant or within eight days after the service of the summons on him, whichever period shall last expire, apply *ex parte* on an affidavit setting forth the facts on which he relies for his defence to a Judge of the High Court for an order removing the cause into the High Court.

“ (2) Unless the Judge is of opinion that the application has been made solely for the purpose of delay, the applicant shall be entitled to such order as of right, but it shall be lawful for the Judge, if he shall think fit, in and by such order to require the applicant to give security to a reasonable amount to be specified in the order for the payment of any costs which may become payable by him to the plaintiff in respect of the said suit, and such Judge may also, if he shall think fit, declare that the removal directed by such order shall be conditional upon the completion of such security within a reasonable time to be prescribed in the order.

“ (3) If the applicant fail or neglect to complete the required security (if any) within the prescribed time (if any), the said order shall be discharged and the suit shall proceed in the Small Cause Court as if such order had never been made.

“ (4) If the plaintiff in any case which has been removed under this section into the High Court has abandoned a portion of his claim in order to be able to bring the suit within the jurisdiction of a Small Cause Court, he shall be permitted to revive the portion of his claim so abandoned.

“40. (1) When a suit has been removed into the High Court under the last foregoing section, it shall be heard and disposed of by such Court in the exercise of its original jurisdiction, and the said Court shall have all the same powers and jurisdiction in respect thereof as if it had been originally instituted in such Court.

contested cases.

Removal of certain cause into High Court.

Rules with respect to suits removed under the last foregoing section.

## (Sec. 1.)

“(2) In every suit so removed as aforesaid the affidavit filed under section 39, sub-section (1), shall be treated as a written statement of the defendant tendered under section 110 of the Code of Civil Procedure<sup>1</sup> unless the Court shall otherwise order. XIV c

“(3) In every suit so removed as aforesaid credit shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are payable to the Government.”

ACT No. III OF 1895.<sup>2</sup>

[8th February, 1895.]

An Act to amend the Indian Penal Code,<sup>3</sup> Act VI of 1864<sup>4</sup> and the Indian Post-office Act, 1866.<sup>5</sup>

WHEREAS it is expedient to amend the Indian Penal Code,<sup>3</sup> Act VI of 1864<sup>4</sup> and the Indian Post-office Act, 1866;<sup>5</sup> It is hereby enacted as follows:— XIV of

*Indian Penal Code.*<sup>3</sup>

1. For section 182 of the Indian Penal Code<sup>3</sup> the following shall be substituted, namely:— XIV of

Substitution of new section for section 182, Act XLV, 1860. False information, with

“182. Whoever gives to any public servant any information which he knows

<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

<sup>2</sup> Short title, “The Indian Criminal Law Amendment Act, 1895.” See the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 95; for Report of the Select Committee, see *ibid*, 1895, Pt. V, p. 19; for Proceedings in Council, see *ibid*, 1894, Pt. VI, p. 151; *ibid*, 1895, Pt. VI, pp. 37 and 116 to 124.

This Act is in force in Upper Burma (except the Shan States) in so far as it amends Act XLV of 1860 which original Act as amended to date was declared in force there by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

It has also been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872), as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, see Gazette of India, 1895, Pt. I, p. 310.

So far as this Act amends the Whipping Act, 1864 (VI of 1864), it has been extended to the Districts of Sylhet, Kamrup, Nowgong, Darrang, Sibsagar, Lakhimpur, Cachar (excluding the North Cachar Hills) and Goalpara (excluding the Eastern Dvārs). See Gazette of India, 1896, Pt. I, p. 302.

<sup>3</sup> Printed, General Acts, Vol. I, Ed. 1893, p. 240.

<sup>4</sup> Printed, General Acts, Vol. I, Ed. 1893, p. 429.

<sup>5</sup> Act XIV of 1866 has been repealed by the Indian Post-office Act, 1893 (VI of 1893) which has been declared in force in Upper Burma (except the Shan States) by s. 4 and the First Schedule to the Burma Laws Act, 1898 (XIII of 1898).



or believes to be false, intending thereby to cause or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit, if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

*“ Illustrations.*

“(a) A informs a Magistrate that Z, a police-officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

“(b) A falsely informs a public servant that Z has contraband salt in a secret place knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

“(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the Police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.”

2. To Chapter XII of the said Code the following shall be added, namely :—

“ 263A. (1) Whoever—

(a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or

(b) has in his possession, without lawful excuse, any fictitious stamp, or

(c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

“(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

“(3) In this section ‘fictitious stamp’ means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage,

intent to cause public servant to use his lawful power to the injury of another person.

Addition of section to Chapter XII, Act XLV, 1860.

Prohibition of fictitious stamps.

or any facsimile or imitation or representation, whether on paper or otherwise of any stamp issued by Government for that purpose.

“(4) In this section and also in sections 255 to 263, both inclusive, the word ‘Government,’ when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorised by law to administer executive government in any part of India, and also in any part of Her Majesty’s dominions or in any foreign country.”

Substitution  
of new section  
for section  
294, Act XLV,  
1860.

3. For section 294 of the said Code the following shall be substituted, namely :—

Obscene acts  
and songs.

“294. Whoever, to the annoyance of others,

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.”

Addition of  
new section  
after section  
477, Act  
XLV, 1860.

4. After section 477 of the said Code the following shall be added, namely :—

Falsification  
of accounts.

“477A. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

“*Explanation.*—It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.”

#### Act VI of 1864.<sup>1</sup>

Substitution  
of new sec-

5. For sections 2, 3 and 4 of Act VI of 1864 (*an Act to authorise the*

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 429.

## (Sec. 5.)

*punishment of whipping in certain cases*) the following shall be substituted, namely :—

“ 2. Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the Indian Penal Code,<sup>1</sup> that is to say :—

*Group A.*

- (1) theft, as defined in section 378 of the said Code ;
- (2) theft in a building, tent or vessel, as defined in section 380 of the said Code ;
- (3) theft by a clerk or servant, as defined in section 381 of the said Code ;
- (4) theft after preparation for causing death or hurt, as defined in section 382 of the said Code ;

*Group B.*

- (5) extortion by threat, as defined in section 388 of the said Code ;
- (6) putting a person in fear of accusation in order to commit extortion, as defined in section 389 of the said Code ;

*Group C.*

- (7) dishonestly receiving stolen property, as defined in section 411 of the said Code ;
- (8) dishonestly receiving property stolen in the commission of a dacoity, as defined in section 412 of the said Code ;

*Group D.*

- (9) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section ;
- (10) lurking house-trespass by night or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section.

“ 3. Whoever, having been previously convicted of any one of the offences specified in the last preceding section, shall again be convicted of the same offence or of any offence included in the same Group of offences, may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence be liable under the Indian Penal Code.<sup>1</sup>

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

On second conviction of offence mentioned in section 2, whipping may be added to other punishment.

Offences punishable, in case of second conviction, with whipping in addition to other punishment.

“ 4. Whoever, having been previously convicted of any one of the following offences, shall be again convicted of the same offence, or of any offence included in the same Group of offences, may be punished with whipping in addition to any other punishment to which he may be liable under the Indian Penal Code,<sup>1</sup> that is to say :—

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*Group A.*

- (1) giving or fabricating false evidence in such manner as to be punishable under section 193 of the Indian Penal Code ;
- (2) giving or fabricating false evidence with intent to procure conviction of a capital offence, as defined in section 194 of the said Code ;
- (3) giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment, as defined in section 195 of the said Code ;

*Group B.*

- (4) falsely charging any person with having committed an unnatural offence, as defined in sections 211 and 377 of the said Code ;

*Group C.*

- (5) assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in section 354 of the said Code ;
- (6) rape, as defined in section 375 of the said Code ;
- (7) unnatural offences, as defined in section 377 of the said Code ;

*Group D.*

- (8) robbery or dacoity, as defined in sections 390 and 391 of the said Code ;
- (9) attempting to commit robbery, as defined in section 393 of the said Code ;
- (10) voluntarily causing hurt in committing robbery, as defined in section 394 of the said Code ;

*Group E.*

- (11) habitually receiving or dealing in stolen property, as defined in section 413 of the said Code ;

*Group F.*

- (12) forgery, as defined in section 463 of the said Code ;
- (13) forgery of a document, as defined in section 466 of the said Code ;

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<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

- (14) forgery of a document, as defined in section 467 of the said Code ;  
 (15) forgery for the purpose of cheating, as defined in section 468 of the said Code ;  
 (16) forgery for the purpose of harming the reputation of any person, as defined in section 469 of the said Code ;

*Group G.*

- (17) lurking house-trespass, or house-breaking, as defined in sections 443 and 445 of the said Code, in order to the committing of any offence punishable with whipping under this section ;  
 (18) lurking house-trespass by night or house-breaking by night, as defined in sections 444 and 446 of the said Code, in order to the committing of any offence punishable with whipping under this section."

6. To section 5 of the same Act the following *explanation* shall be added, namely :—

*Addition of explanation to section 5, Act VI of 1864.*

"*Explanation.*—In this section the expression ' juvenile offender ' means an offender who in the opinion of the Court is under sixteen years of age, the decision of the Court on such matter being final and conclusive."

*The portion relating to the Indian Post Office Act, 1866 (XIV of 1866), has been repealed by the Indian Post Office Act, 1898 (VI of 1898).*

ACT No. VII OF 1895.<sup>1</sup>

[ 1st March, 1895.]

An Act to amend certain sections of the Code of Civil Procedure<sup>2</sup> and the Punjab Laws Act, 1872.<sup>3</sup>

1882. WHEREAS it is expedient to amend certain sections of the Code of Civil  
 872. Procedure and the Punjab Laws Act, 1872 :<sup>3</sup> It is hereby enacted as follows :—

*Code of Civil Procedure.*<sup>2</sup>

1. (1) In the third paragraph of section 39 of the said Code, between the

*Amendment of section 39.*

<sup>1</sup> Short title, "The Panjab Laws Act Amendment Act, 1895," see the Indian Short Titles Act, 1897 (XIV of 1897). Printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 108 ; for Preliminary Report of the Select Committee, see *ibid*, 1894, Pt. V, p. 164 ; for Report of the Select Committee, see *ibid*, 1895, Pt. V, p. 43 ; for Proceedings in Council, see *ibid*, 1894, Pt. VI, pp. 220, 229 and 241 ; *ibid*, 1895, Pt. VI, pp. 34, 110, 142 and 146 to 155.

So far as it amends Act XIV of 1882, this Act is in force in Upper Burma (except the Shan States), the original Act having been declared in force there by the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1899.

It has also been declared in force in the Santhál Parganas, by notification under s. 3 of the Santhál Parganas Settlement Regulation (III of 1872) as amended by the Santhál Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, see Gazette of India, 1895, Pt. I, p. 310.

<sup>2</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

<sup>3</sup> See the revised edition published by the Legislative Department, as modified up to July, 1891.

(Sec. 2.)

Act XIV,  
1882.

words “of any High Court established by Royal Charter” and the words “shall be required,” the words “or of the Chief Court of the Punjab” shall be inserted

(2) To the said section the following *explanation* shall be added, namely :—

“*Explanation.*—For the purposes of the enrolment of advocates the High Court of Bombay shall be at liberty to treat the Sadr Court of Sind as within the local limits of its jurisdiction.”

Amendment  
of section 180,  
Act XIV,  
1882.

2. For the first and second paragraphs of section 180 of the said Code the following shall be substituted, namely :—

“The other party shall then state his case and produce his evidence (if any), and may then address the Court generally on the whole case.

“The party beginning may then reply generally on the whole case.”

3 and 4. [*Amendment of the Punjab Laws Act, 1872 (IV of 1872).*] not reproduced here as it affects a Local Act; but see the revised edition of the Act as published by the Legislative Department, modified up to July, 1891.

ACT No. VIII OF 1895.<sup>1</sup>

[1st March, 1895.]

An Act to amend Act V of 1861<sup>2</sup> (*an Act for the Regulation of Police.*)

WHEREAS it is expedient to amend Act V of 1861 (*an Act for the Regulation of Police*); It is hereby enacted as follows:—

1. In section 1 of the said Act the following shall be inserted between the interpretations of the words "general police-district" and the word "property," namely:—

Addition to interpretation-clause, section 1, Act V, 1861.

"The words 'District Superintendent' and 'District Superintendent of Police' shall include any Assistant District Superintendent or other person appointed by general or special order of the Local Government to perform all or any of the duties of a District Superintendent of Police under this Act in any district."

2. In section 7 of the said Act, in lieu of the words beginning "or fine any police-officer" down to the end of the section, the following shall be substituted, namely:—

Amendment of section 7, Act V, 1861, respecting minor punishments.

"or may award any one or more of the following punishments to any police-officer who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof, namely:—

(a) fine to any amount not exceeding one month's pay;

(b) confinement to quarters for a term not exceeding fifteen days, with or without punishment drill, extra guard, fatigue or other duty;

<sup>1</sup> Short title, "The Police Act (1861) Amendment Act, 1895," see the Indian Short Titles Act, 1897 (XIV of 1897). Printed, *infra*, p. 391.

For Statement of Objects and Reasons, see Gazette of India, 1894, Pt. V, p. 166; for Report of the Select Committee, see *ibid*, 1895, Pt. V, p. 35; for Proceedings in Council, see *ibid*, 1894, Pt. VI, p. 242; *ibid*, 1895, Pt. VI, pp. 71, 140 and 156.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, V of 1861, which has been declared in force there by the Burma Laws Act, 1898 (XIII of 1898), see s. 4 and the First Schedule to that Act;

in the Shan States, excluding Khamti Long and Mong Mit, as being part of the original Act there extended by the Shan States Laws and Criminal Justice Order, 1895, see Burma Gazette, 1895, Pt. I, pp. 262 and 542, respectively.

The Act is also in force in the Porahat Estate in the Singbhum District, as being part of the original Act, V of 1861, declared in force there by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), see Gazette of India, 1897, Pt. I, p. 1059.

Ss. 15, 15A, 16, 30, 30A, 31 and 32 of the original Act as amended by this Act, have been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the Schedule Districts in Ganjam and Vizagapatam, see Gazette of India, 1898, Pt. I, p. 872.

Act III of 1895, with the exception of ss. 1, 3, 15 and 16, has in like manner been extended to Coorg, see Gazette of India, 1895, Pt. II, p. 1127.

For rules and orders under the Act, see notes to the original Act, at p. 379 *et seq.* of Vol. I of the General Acts, Ed. 1898.

(Secs. 3-4.)

(c) deprivation of good-conduct pay ;

(d) removal from any office of distinction or special emolument."

Amendment  
of section 8,  
Act V, 1861,  
respecting  
certificates  
and suspen-  
sion.

3. For the second paragraph of section 8 of the said Act, beginning with the words "Such certificate shall cease to have effect" and ending with the words "officer empowered to receive the same," the following shall be substituted, namely :—

"Such certificate shall cease to have effect whenever the person named in it ceases for any reason to be a police-officer, and, on his ceasing to be such an officer, shall be forthwith surrendered by him to any officer empowered to receive the same.

"A police-officer shall not by reason of being suspended from office cease to be a police-officer. During the term of such suspension the powers, functions and privileges vested in him as a police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended."

Substitution  
of new sec-  
tion for sec-  
tion 15, Act  
V, 1861.

4. For section 15 of the said Act the following shall be substituted namely :—

Quartering  
of additional  
police in dis-  
turbed or  
dangerous  
districts.

"15. (1) It shall be lawful for the Local Government, by proclamation to be notified in the official Gazette, and in such other manner as the Local Government shall direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state, or that, from the conduct of the inhabitants of such area or of any class or section of them, it is expedient to increase the number of police.

"(2) It shall thereupon be lawful for the Inspector General of Police, or other officer authorized by the Local Government in this behalf, with the sanction of the Local Government, to employ any police-force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation as aforesaid.

"(3) Subject to the provisions of sub-section (5) of this section, the cost of such additional police-force shall be borne by the inhabitants of such area described in the proclamation.

"(4) The Magistrate of the district, after such enquiry as he may deem necessary, shall apportion such cost among the inhabitants who are as aforesaid liable to bear the same and who shall not have been exempted under the next succeeding sub-section. Such apportionment shall be made according to the Magistrate's judgment of the respective means within such area of such inhabitants.



(Sec. 5.)

“(5) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to bear any portion of such cost.

“(6) Every proclamation issued under sub-section (1) of this section shall state the period for which it is to remain in force, but it may be withdrawn at any time or continued from time to time for a further period or periods as the Local Government may in each case think fit to direct.

“*Explanation.*—For the purposes of this section, ‘inhabitants’ shall include persons who themselves or by their agents or servants occupy or hold land or other immoveable property within such area, and landlords who themselves or by their agents or servants collect rents direct from raiyats or occupiers in such area, notwithstanding that they do not actually reside therein.

5. After section 15 of the said Act the following shall be inserted, namely:—

Addition of new sections after section 15, Act V, 1861.

“15A. (1) If, in any area in regard to which any proclamation notified under the last preceding section is in force, death or grievous hurt or loss of, or damage to, property has been caused by or has ensued from the misconduct of the inhabitants of such area or any class or section of them, it shall be lawful for any person, being an inhabitant of such area, who claims to have suffered injury from such misconduct, to make, within one month from the date of the injury or such shorter period as may be prescribed, an application for compensation to the Magistrate of the district or of the sub-division of a district within which such area is situated.

Awarding compensation to sufferers from misconduct of inhabitants or persons interested in land.

“(2) It shall thereupon be lawful for the Magistrate of the district, with the sanction of the Local Government, after such enquiry as he may deem necessary, and whether any additional police-force has or has not been quartered in such area under the last preceding section, to—

- (a) declare the persons to whom injury has been caused by or has ensued from such misconduct;
- (b) fix the amount of compensation to be paid to such persons and the manner in which it is to be distributed among them; and
- (c) assess the proportion in which the same shall be paid by the inhabitants of such area other than the applicant who shall not have been exempted from liability to pay under the next succeeding sub-section:

“Provided that the Magistrate shall not make any declaration or assessment under this sub-section unless he is of opinion that such injury as

(Secs. 6-8.)

aforesaid has arisen from a riot or unlawful assembly within such area, and that the person who suffered the injury was himself free from blame in respect of the occurrences which led to such injury.

“(3) It shall be lawful for the Local Government, by order, to exempt any persons or class or section of such inhabitants from liability to pay any portion of such compensation.

“(4) Every declaration or assessment made or order passed by the Magistrate of the district under sub-section (2) shall be subject to revision by the Commissioner of the Division or the Local Government, but save as aforesaid shall be final.

“(5) No civil suit shall be maintainable in respect of any injury for which compensation has been awarded under this section.

“(6) *Explanation*.—In this section the word ‘inhabitants’ shall have the same meaning as in the last preceding section.”

6. For section 16 of the said Act the following shall be substituted, namely :—

New section substituted for section 16, Act V, 1861.

Recovery of moneys payable under sections 13, 14, 15 and 15A, and disposal of same when recovered.

“16. (1) All moneys payable under sections 13, 14, 15 and 15A shall be recoverable by the Magistrate of the district in the manner provided by sections 386 and 387 of the Code of Criminal Procedure, 1882,<sup>1</sup> for the recovery of fines, or by suit in any competent Court. X of 1882

“(2) All moneys paid or recovered under sections 13, 14 and 15 shall be credited to a fund to be called ‘The General Police Fund,’ and shall be applied to the maintenance of the police-force under such orders as the Local Government shall pass.

“(3) All moneys paid or recovered under section 15A shall be paid by the Magistrate of the district to the persons to whom and in the proportions in which the same are payable under that section.”

7. To section 26 of the said Act the following shall be added, namely :—

Addition to section 26, Act V, 1861.

“(2) The provisions of section 525 of the Code of Criminal Procedure, 1882,<sup>1</sup> shall be applicable to property referred to in this section.” X of 1882.

8. For section 27 of the said Act the following shall be substituted, namely :—

Substitution of new section for section 27, Act V, 1861.

Confiscation of property if no claimant appears.

“27. (1) If no person shall within the period allowed claim such property, or the proceeds thereof, if sold, it may, if not already sold under sub-section (2)

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898; printed, *infra*, p. 380.

of the last preceding section, be sold under the orders of the Magistrate of the district.

“(2) The sale-proceeds of property sold under the preceding sub-section and the proceeds of property sold under section 26 to which no claim has been established shall be at the disposal of Government.”

9. In section 29 of the said Act, after the words “for the period of two months” the following shall be added, namely:—

“or who, being absent on leave, shall fail, without reasonable cause, to report himself for duty on the expiration of such leave.”

10. For section 30 of the said Act the following shall be substituted namely:—

“30. (1) The District Superintendent or Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass.

“(2) He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any such road, street or thoroughfare, or to form a procession which would, in the judgment of the Magistrate of the district or of the sub-division of a district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license.

“(3) On such application being made he may issue a license specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place and otherwise giving effect to this section: Provided that no fee shall be charged on the application for, or grant of, any such license.

“(4) He may also regulate the extent to which music may be used in the streets on the occasion of festivals and ceremonies.”

11. After section 30 of the said Act the following section shall be inserted, namely:—

“30A. (1) Any Magistrate or District Superintendent of Police or Assistant District Superintendent of Police or Inspector of Police or any police-officer in charge of a station may stop any procession which violates the conditions of a license granted under the last foregoing section, and may order it or any assembly which violates any such conditions as aforesaid to disperse.

Addition to section 29, Act V, 1861, respecting overstay of leave.

Substitution of new section for section 30, Act V, 1861.

Regulation of public assemblies and processions, and licensing of the same.

Addition of new section after section 30, Act V, 1861.

Powers with regard to assemblies and processions violating conditions of license.

“(2) Any procession or assembly which neglects or refuses to obey any order given under the last preceding sub-section shall be deemed to be an unlawful assembly.”

Amendment of sections 32 and 33, Act V, 1861.

12. In section 32 of the said Act, for the word “two,” where it first occurs, the word “three,” and in section 33 of the said Act, for the word “three” the word “four,” shall be respectively substituted.

Amendment of section 14, Act V, 1861.

13. In section 34 of the said Act, after the words “or in any” the words “open place or” shall be inserted, and for the expression “residents and passengers” the expression “residents or passengers” shall be substituted.

Substitution of new section for sections 37, 38, 39 and 40, Act V, 1861.

14. For sections 37, 38, 39 and 40 of the said Act the following section shall be substituted, namely :—

Recovery of penalties and fines imposed by Magistrates.

“37. The provisions of sections 61 to 70, both inclusive, of the Indian Penal Code,<sup>1</sup> and of sections 386 to 389, both inclusive, of the Code of Criminal Procedure, 1882<sup>2</sup>, with respect to fines, shall apply to penalties and fines imposed under this Act on conviction before a Magistrate : XLV of 1860. X of 1882.

Provided that, notwithstanding anything contained in section 65 of the first-mentioned Code, any person sentenced to fine under section 34 of this Act may be imprisoned in default of payment of such fine for any period not exceeding eight days.”

Substitution of new section for section 46, Act V, 1861.

15. For section 46 of the said Act the following shall be substituted, namely :—

Scope of Act.

“46. (1) This Act shall not by its own operation take effect in any presidency, province or place. But the Governor General in Council, by an order to be published in the Gazette of India, may extend the whole or any part of this Act to any presidency, province or place, and the whole or such portion of this Act as shall be specified in such order shall thereupon take effect in such presidency, province or place.

“(2) When the whole or any part of this Act shall have been so extended, the Local Government may from time to time, by notification in the official Gazette, make rules consistent with this Act—

(a) to regulate the procedure to be followed by Magistrates and police-officers in the discharge of any duty imposed upon them by or under this Act ;

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>2</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

(b) to prescribe the time, manner and conditions within and under which claims for compensation under section 15A are to be made, the particulars to be stated in such claims, the manner in which the same are to be verified, and the proceedings (including local enquiries if necessary) which are to be taken consequent thereon ; and,

(c) generally, for giving effect to the provisions of this Act.

“(3) All rules made under this Act may from time to time be amended, added to or cancelled by the Local Government.”

16. All orders heretofore issued by the Governor General in Council or the Local Government under section 46 of the said Act shall, as far as may be, be deemed to have been issued under the new section substituted for the same by the last foregoing section.

Saving of  
orders here-  
tofore issued  
under section  
46, Act V,  
1861.

### ACT No. IX OF 1895.<sup>1</sup>

[7th March, 1895.]

An Act to confer on Presidency Magistrates and District Magistrates certain powers and authorities in relation to the surrender of fugitive criminals.

t., WHEREAS by the Extradition Act, 1870,<sup>2</sup> it is, among other things, enacted that the said Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession, but with the following among other modifications, namely :—

No warrant of a Secretary of State shall be required, and all powers vested in, or acts authorized or required to be done under the said Act by, the Police Magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone ;

And whereas by the said Act it is also enacted that, if by any law or ordinance made before or after the passing of the said Act by the Legislature of any British possession provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or are suspected of being in such possession, Her Majesty may, by the Order in Council applying

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 6; for Proceedings in Council, see *ibid*, 1895, Pt. VI, pp. 91 and 216.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898, see the First Schedule, printed, Burma Code, Ed. 1899.

<sup>2</sup> Printed Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 890.

the said Act in the case of any foreign State, or by any subsequent order, either—

suspend the operation within any such British possession of the said Act or any part thereof, so far as it relates to such foreign State, and so long as such law or ordinance continues in force there, and no longer,

or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of the said Act ;

And whereas the said Extradition Act, 1870,<sup>1</sup> was amended by the Extradition Act, 1873,<sup>2</sup> which enacted that that Act was to be construed as one with the said Act of 1870,<sup>1</sup> and that the said two Acts might be cited together as the Extradition Acts, 1870<sup>1</sup> and 1873 ;<sup>2</sup> 36 & 37 Vict., c. 60.

And whereas it is expedient to provide for the more convenient administration in British India of the said Extradition Acts, 1870<sup>1</sup> and 1873,<sup>2</sup> by conferring on Presidency Magistrates and District Magistrates the like powers and authorities in relation to the surrender of fugitive criminals as are by the said Acts vested in Police Magistrates and Justices of the Peace in the United Kingdom ;

It is hereby enacted as follows :—

Title and  
commence-  
ment.

1. (1) This Act may be called the Extradition (India) Act, 1895 ; and

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf<sup>3</sup> :

Provided that no such date shall be appointed until after Her Majesty has been pleased by Order in Council to direct that this Act shall have effect in British India as if it were part of the Extradition Act, 1870,<sup>1</sup> and such Order has been published in the Gazette of India. 33 & 34 Vict., c. 52.

Powers of  
Police Magis-  
trates and  
Justices of  
Peace under  
Imperial  
Acts confer-  
red on Pre-  
sidency and  
District  
Magistrates.

2. All powers vested in, and acts authorized or required to be done by, a Police Magistrate or any Justice of the Peace in relation to the surrender of fugitive criminals in the United Kingdom under the Extradition Acts, 1870<sup>1</sup> and 1873,<sup>2</sup> are hereby vested in, and may in British India be exercised and done by, any Presidency Magistrate or District Magistrate in relation to the surrender of fugitive criminals under the said Acts.

<sup>1</sup> Printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 890.

<sup>2</sup> Printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 961.

<sup>3</sup> For notification appointing the 15th of February, 1896, as the day on which the Act shall come into force, see Gazette of India, 1896, Pt. I, p. 88.

ACT No. X of 1895.<sup>1</sup>

[7th March, 1895.]

An Act to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882,<sup>2</sup> of interest out of capital during construction.

WHEREAS it is expedient to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882,<sup>2</sup> of interest out of capital during construction; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Railway Companies Act, 1895.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

Title, extent  
and com-  
mencement.

2. In this Act, unless there is something repugnant in the subject or context,—

1. (1) "railway" means a railway as defined in section 3, clause (4), of the Indian Railways Act, 1890<sup>3</sup>:

(2) "the railway" means the railway in relation to the construction of which interest out of capital is permitted to be paid as hereinafter provided: and

2. (3) "Railway Company" means a Company registered under the Indian Companies Act, 1882,<sup>2</sup> and formed for the purpose of making and working, or making or working, a railway in India, whether alone or in conjunction with other purposes.

3. A Railway Company may pay interest on its paid-up share capital out of capital, for the period, and subject to the conditions and restrictions, in this section mentioned, and may charge the same to capital as part of the cost of construction of the railway:—

Payment of  
interest out  
of capital.

(1) Such interest shall be paid only for such period as shall be determined by the Governor General in Council; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the railway shall be actually completed and opened for traffic.

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1895, Pt. V, p. 25; for Proceedings in Council, see *ibid*, 1895, Pt. VI, pp. 128, 213 and 217.

The Act has been declared in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (XIII of 1898, printed, Burma Code, Ed. 1899).

<sup>2</sup> Printed, General Acts, Ed. 1898, Vol. IV, p. 100.

<sup>3</sup> Printed, General Acts, Ed. 1898, Vol. V, p. 410.

(Secs. 4-7.)

- (2) No such payment shall be made unless the same is authorised by the Company's memorandum of association or by a special resolution of the Company.
- (3) No such payment, whether authorised by the Company's memorandum of association or by special resolution as aforesaid, shall be made without the previous sanction of the Governor General in Council.
- (4) The amount so paid out of capital by way of interest, in respect of any period, shall in no case exceed a sum which shall, together with the net earnings of the railway during such period, make up the rate of four per cent. per annum.
- (5) No such payment of interest shall be made until such Railway Company has satisfied the Governor General in Council that two-thirds at least of its share capital, in respect whereof interest is to be so paid, has been actually issued and accepted, and is held by shareholders who, or whose representatives, are legally liable for the same.
- (6) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear.
- (7) The payment of such interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid.

Provisions of section 3 applicable to additional share capital for extensions.

4. A railway in course of construction and intended to be made or worked by a Railway Company in addition to or by way of extension of any railway owned or worked by such Company shall be deemed to be the railway of such Company for the purposes of this Act, and all the provisions of the last preceding section shall apply to such railway and to the share capital issued for the purpose of its construction.

Notice in prospectus and other documents.

5. When a Railway Company has power to pay interest under this Act notice to that effect shall be given in every prospectus, advertisement or other document inviting subscriptions for shares therein, and in every certificate of such shares.

Accounts.

6. When any interest has been paid by a Railway Company under this Act, the annual or other accounts of such Company shall show the amount on which, and the rate at which, interest has been so paid.

Construction of borrowing powers.

7. If by any memorandum of association, articles of association or other document any power of borrowing money is conferred on a Railway Company, or on its Directors, with or without the sanction of any meeting, and if such power of borrowing is limited to an amount bearing any proportion to the capital of such Company, the amount of capital applied or to be applied in payment of interest under this Act shall, for the purpose of ascertaining the



extent of such power of borrowing, be deducted from the capital of such Company.

ACT No. XII of 1895.<sup>1</sup>

[21st March, 1895.]

An Act to give power to Companies to make certain alterations in the Instruments under which they are constituted, and to amend the Indian Companies Act, 1882.<sup>2</sup>

WHEREAS it is expedient to give to companies power to alter the provisions of the instruments under which they are constituted in certain cases; and whereas it is also expedient to amend section 65 of the Indian Companies Act, 1882;<sup>2</sup> It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Companies (Memorandum of Association) Act, 1895; and

Short title and commencement.

(2) It shall come into force at once.

2. Sections 3 to 10 (both inclusive) shall be read with and taken as part of the Indian Companies Act, 1882.

Sections 3 to 10 to be read with Act VI of 1882.

3. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) the expression “deed of settlement” includes any contract of copartnery or other instrument constituting or regulating a company and not being an Act of Parliament, a Royal Charter or Letters Patent; and

(2) the expression “High Court” means for the Town of Rangoon the Recorder and elsewhere the High Court as defined in the General Clauses Act, 1868.<sup>3</sup>

4. Subject to the provisions of this Act, a company registered under the Indian Companies Act, 1882,<sup>2</sup> may, by special resolution, alter the provisions of its memorandum of association or deed of settlement with respect to the objects of the company, so far as may be required for any of the purposes hereinafter specified, or alter the form of its constitution by substituting a

Power for company to alter objects or form of constitution subject to confirmation by High Court.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 2; for Report of the Select Committee, see *ibid.*, 1895, Pt. V, p. 55; for Proceedings in Council, see *ibid.*, 1895, Pt. V, pp. 38, 216, 234 and 263.

The Act has been declared in force in Upper Burma (except the Shan States), by the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

<sup>2</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 100. For extensions of the original Act, see *ibid.*

<sup>3</sup> See now the General Clauses Act, 1897 (X of 1897), printed, *infra*, p. 316.

memorandum and articles of association for a deed of settlement, either with or without any such alteration as aforesaid with respect to the objects of the company ; but in no case shall any such alteration take effect until confirmed on petition by the High Court.

Particulars  
as to which  
Court must  
be satisfied  
before con-  
firmation.

5. Before confirming any such alteration the High Court must be satisfied—

- (a) that sufficient notice has been given to every holder of debentures or debenture stock of the company, and every person or class of persons whose interests will, in the opinion of the Court, be affected by the alteration ; and
- (b) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court :

Provided that the Court may, in the case of any person or class of persons, for special reasons, dispense with the notice required by this section.

Power of  
Court when  
confirming  
to impose  
terms and  
make order  
as to costs.  
Discretion  
conferred  
on Court.

6. An order confirming any such alteration may be made on such terms and subject to such conditions as to the Court may seem fit, and the Court may make such orders as to costs as it may deem proper.

7. The High Court shall, in exercising its discretion under this Act, have regard to the rights and interests of the members of the company, or of any class of those members, as well as to the rights and interests of the creditors, and may, if it shall think fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members ; and the Court may give such directions and make such orders as it may think expedient for the purpose of facilitating any such arrangement or carrying the same into effect :

Provided always that it shall not be lawful to expend any part of the capital of the company in any such purchase.

Ground on  
which Court  
may confirm  
a proposed  
alteration.

8. The High Court may confirm, either wholly or in part, any such alteration as aforesaid with respect to the objects of the company if it appears that the alteration is required in order to enable the company—

- (a) to change the place of the registered office of the company from one part of British India to another ; or
- (b) to carry on its business more economically or more efficiently ; or
- (c) to attain its main purpose by new or improved means ; or

## (Sec. 9.)

- (d) to enlarge or change the local area of its operations; or
- (e) to carry on some business or businesses which under existing circumstances may conveniently or advantageously be combined with the business of the company; or
- (f) to restrict or abandon any of the objects specified in the memorandum of association or deed of settlement.

9. (1) Where a company has altered the provisions of its memorandum of association or deed of settlement with respect to the place of its registered office or to the objects of the company, or has altered the form of its constitution by substituting a memorandum and articles of association for a deed of settlement, and such alteration has been confirmed by the Court, a certified copy of the order confirming such alteration, together with a printed copy of the memorandum of association or deed of settlement so altered, or together with a printed copy of the substituted memorandum and articles of association (as the case may be), shall be delivered by the company to the Registrar of Joint Stock Companies within three months from the date of the order, and the Registrar shall register the same, and shall certify under his hand the registration thereof, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to such alteration and the confirmation thereof have been complied with.

Registration of order together with memorandum as altered or substituted memorandum and articles, and consequence thereof.

(2) When any such alteration as aforesaid involves a transfer of the registered office to a part of British India other than that in which the office is at which the company is registered, a certified copy of the order confirming such change shall be delivered by the company to the Registrar of Joint Stock Companies in each of such parts, and each of such Registrars shall register the same, and shall certify under his hand the registration thereof, and the Registrar for the part from which such office is transferred shall send to the Registrar for the other part all documents relating to the company registered in his office.

(3) From the date of such registration (but subject to the provisions of this Act) the memorandum or deed of settlement so altered shall be the memorandum of association or deed of settlement of the company, or, as the case may be, such substituted memorandum and articles of association shall apply to the company in the same manner as if the company were a company registered under Part I of the Indian Companies Act, 1882,<sup>1</sup> with such memorandum and articles of association, and the company's deed of settlement shall cease to apply to the company.

<sup>1</sup> Printed, General Acts, Vol. IV, p. 100.

(4) For every registration under this section there shall be payable to the Registrar of Joint Stock Companies a fee of five rupees.

Effect of  
failure to  
register  
within three  
months.

10. No such alteration as aforesaid shall have any operation until registration thereof has been duly effected under the last foregoing section, and, if such registration shall not have been effected within three months next after the date of the order of the Court confirming the alteration, such alteration and order and all proceedings connected therewith shall at the expiration of such period of three months become and be absolutely null and void :

Provided that the Court may, on sufficient cause shewn, revive the order on application made within a further period of one month.

Amendment  
of section 65  
of Act VI of  
1882.

11. In section 65 of the Indian Companies Act, 1882,<sup>1</sup> for the words “in VI of 1882. such language or languages” the second time they occur, the words “in the English language” shall be substituted.

#### ACT No. XIII of 1895.<sup>2</sup>

[25th July, 1895.]

### An Act to amend sections 632 and 652 of the Code of Civil Procedure.<sup>3</sup>

WHEREAS it is expedient to amend sections 632 and 652 of the Code of Civil Procedure ;<sup>3</sup> It is hereby enacted as follows :—

XIV of 1882.

1. In section 632 of the said Code, after the word “chapter” the words and figures “and in section 652” shall be added.

2. To section 652 of the said Code the following shall be added, namely :—  
“Notwithstanding anything in this Code contained, any High Court established under the said Act for establishing High Courts of Judicature in India may make such rules consistent with the Letters Patent establishing it to regulate its own procedure in the exercise of its original civil jurisdiction, as it shall think fit.

“All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.”

<sup>1</sup> Printed, General Acts, Vol. IV, p. 100.

<sup>2</sup> Short title “The Civil Procedure Code Amendment Act, 1895,” see the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 167; for Proceedings in Council, see *ibid*, 1895, Pt. VI, pp. 325 and 327.

This Act is in force in Upper Burma (except the Shan States) as being part of the original Act, XIV of 1882, declared in force there by the Burma Laws Act, 1898 (XIII of 1898), printed Burma Code Ed. 1899.

Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

Amendment  
of section  
632, Act  
XIV, 1882.  
Amendment  
of section  
652, Act  
XIV, 1882.

## THE PILGRIM SHIPS ACT, 1895.

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ACT No. XIV OF 1895.<sup>1</sup>

[4th October, 1895.]

## An Act to make better provision for the regulation of Pilgrim Ships.

WHEREAS it is expedient to make better provision for the regulation of pilgrim ships; It is hereby enacted as follows:—

*Preliminary.*

- |   |   |
|---|---|
| 1. This Act may be called the Pilgrim Ships Act, 1895.  | Title.  |
| 2. (1) It extends to the whole of British India, and applies—   | Extent and application.                                 |
| (a) to all subjects of Her Majesty within the dominions of Princes and States in India under the suzerainty of Her Majesty;   |   |
| (b) to all native Indian subjects of Her Majesty without and beyond British India; and,   |   |
| (c) subject to the exceptions mentioned in sub-section (2), to every pilgrim ship as hereinafter defined.   |   |
| (2) But it does not apply—  |   |
| (i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Royal Indian Marine Service, or   |   |
| (ii) to any other ship for the time being in the service of Her Majesty,  |   |
| or  |   |
| (iii) to any ship-of-war belonging to any Foreign Prince or State, or   |   |
| (iv) to any ship not being a pilgrim ship.  |   |
| 3. This Act shall come into force on such day as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf. <sup>2</sup> | Commencement.   |
| 4. On and from that day nothing contained in the Native Passenger Ships Act, 1887, <sup>3</sup> shall apply to any pilgrim ship.                                    | Repeal of Act X, 1887, so far as regards pilgrim ships. |
| 5. In this Act, unless there is anything repugnant in the subject or context,—  | Definitions.  |
| (1) “pilgrim” means a Muhammadan passenger going to, or returning from, the Hedjaz; but it does not include a child under one year of age, and                      |   |

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 165; for Report of the Select Committee, see *ibid.*, 1895, Pt. V, p. 177; for Proceedings in Council, see *ibid.*, 1895, Pt. VI, pp. 321, 327, 335 and 340.

<sup>2</sup> Act XIV of 1895 was brought into force on the 6th day of October, 1896, see Gazette of India, 1896, Pt. I, p. 800.

<sup>3</sup> Printed, General Acts, Vol. V, p. 144.

(Preliminary. Sec. 6. Rules for Voyages of Pilgrim Ships. Secs. 7-8.)

in the computation of pilgrims for all or any of the purposes of this Act the Governor General in Council may, by notification in the Gazette of India direct that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim.

*Explanation.*—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz, but is returning without having actually landed there, shall be deemed to be a pilgrim for the purposes of this Act:

(2) "pilgrim ship" means a ship conveying or about to convey pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez:

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act:

*Explanation.*—A "pilgrim of the lowest class" is a pilgrim for whom no separate accommodation in any cabin, state-room or saloon is reserved:

(3) "voyage" means the whole distance between a pilgrim ship's port or place of departure and her final port or place of arrival:

(4) "Chief Customs-officer" means the chief executive officer of sea-customs for any port or place to which this Act applies:

(5) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class: and

(6) "prescribed" means prescribed by rules made by the Governor General in Council under this Act.

6. Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be deemed to be a pilgrim for the purposes of this Act.

All passengers on pilgrim ships to be deemed pilgrims.

#### *Rules for Voyages of Pilgrim Ships.*

Pilgrim ships to sail only from places appointed by the Government.

7. (1) No pilgrim ship shall depart or proceed from, or discharge pilgrims at, any port or place within British India other than a port or place appointed in this behalf by the Local Government.

(2) After a pilgrim ship has departed or proceeded on a voyage from a port or place so appointed, no person shall be received on board as a pilgrim except at some other port or place so appointed.

Notice to be given of time of sailing.

8. (1) The master, owner or agent of a pilgrim ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that she is to carry pilgrims, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given at the original port of departure if in British



India and in other cases at the first port at which she touches in British India, not less than three days, and at all other ports of call not less than twenty-four hours, before that time.

9. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board.

Power to enter on and inspect pilgrim ship.

10. (1) No pilgrim ship shall commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

Pilgrim ship not to sail without two certificates.

(2) The officer whose duty it is to grant a port-clearance shall not grant it unless the master holds those certificates.

11. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of pilgrims of each class which she is capable of carrying.

Contents of certificate A.

12. The second of the certificates (hereinafter called "certificate B") shall state -

Contents of certificate B.

(a) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch ;

(b) that she has the proper complement of officers and seamen ;

(c) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for pilgrim ships have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the pilgrims on board during the voyage which she is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed ;

(d) that the master holds certificate A ;

(e) that she is propelled principally by steam ;

(f) that she is of the tonnage and steam-power (if any) prescribed ;

(g) that, if she is to carry more than one hundred pilgrims, she has on board the medical officer, or medical officers, required by section 27 and the prescribed attendants ;

(h) such other particulars (if any) as may be prescribed.

13. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 8.

Grant of certificates.

14. Where the master of a pilgrim ship produces to that officer either of the following certificates, namely,—

Substitute for certificate A.

(a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

*(Rules for Voyages of Pilgrim Ships. Secs. 15-17.)*

(b) a certificate granted under the authority of a British Indian Government on a date not more than one year before the proposed day of sailing and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, the officer may, if the particulars required by section 11 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purpose of this Act.

Survey of pilgrim ship.

15. (1) After receiving the notice required by section 8, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether she is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the conveyance of pilgrims:

Provided that he shall not cause a pilgrim ship holding a certificate mentioned in section 11, clause (a) or clause (b), to be surveyed unless, by reason of her having met with damage or having undergone alterations, or on any other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the conveyance of pilgrims.

(2) If the officer causes a survey to be made of a pilgrim ship holding any such certificate, and the surveyors report that she is seaworthy and properly equipped, fitted and ventilated for the conveyance of pilgrims, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for such traffic, the expense of the survey shall be paid by the Local Government.

Discretion as to grant of certificate.

16. (1) The officer authorized to grant a certificate under this Act in respect of a pilgrim ship shall not grant it unless he is satisfied that she has on board no cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the pilgrims embarked.

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold a certificate under this Act.

(3) In the exercise of that discretion such officer shall be subject to the control of the Local Government and of any intermediate authority which that Government may appoint in this behalf.

Copy of certificates to be exhibited.

17. The master or owner of every pilgrim ship shall post up in a conspicuous part of her, so as to be visible to persons on board, a copy of each of the certificates granted under this Act in respect thereof, and shall keep those copies so posted up throughout the voyage.

18. If an officer appointed in this behalf by the Local Government is satisfied that a pilgrim has brought on board a pilgrim ship for his own use food of the prescribed quality and in the prescribed quantity, the requirements of this Act respecting the supply of food for pilgrims shall not apply so far as regards the supply of food for that pilgrim.

Supply by pilgrims of their own food.

19. (1) The Governor General in Council may by order<sup>1</sup> prescribe the number of superficial and cubic feet of space (not being less than the space for the time being required for passengers under any Act for the regulation of passenger ships) to be available in the between-decks for pilgrims of each class respectively on board pilgrim ships.

Space to be provided for pilgrims

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as is not required for the airing space of the crew or for permanent structures:

Provided that the upper-deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board.

(3) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit:

Provided that not less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim of the age of twelve years or upwards of that class on board.

20. The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed.

Disposal of pilgrims' baggage.

21. There shall be a regularly appointed hospital on board every pilgrim ship offering such conditions of security, health and space and capable of accommodating such number, not exceeding five per cent., of the pilgrims embarked, as may be prescribed.

Hospital accommodation.

22. The master of every pilgrim ship departing or proceeding from any port or place in British India shall sign a statement in duplicate in the prescribed form specifying the total number and the number of each sex of all the pilgrims embarked and the number of the crew, and such other particulars as may be prescribed, and shall deliver both copies to the officer appointed under section 8, who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one of the copies.

Statement concerning pilgrims to be delivered before ship departs.

23. The master of every pilgrim ship shall note in writing on the copy of

Deaths on voyage.

<sup>1</sup> For instance of such order, see Notification No. 3145, Gazette of India, 1897, Pt. I, p. 851.

*(Rules for Voyages of Pilgrim Ships. Secs. 24-27.)*

the statement returned to him under the last foregoing section, and on any additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination or at any port or place at which it may be intended to land pilgrims, and, before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs-officer thereat or the officer (if any) appointed there under section 8.

Pilgrim ship taking additional pilgrims at intermediate place.

24. (1) In either of the following cases, namely,—

- (a) if after a pilgrim ship has departed or proceeded on her voyage any additional pilgrims are taken on board at a port or place within British India appointed under this Act for the embarkation of pilgrims, or
- (b) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 8, and shall furnish an additional statement in duplicate in the prescribed form respecting such additional pilgrims.

(2) All the foregoing provisions of this Act with respect to certificate B and the statement concerning pilgrims to be signed and delivered by the masters of pilgrim ships shall be applicable to any certificate granted or statement furnished under this section.

Statement concerning pilgrims to be delivered before pilgrims disembark in British India.

25. The master of every pilgrim ship arriving at any port or place in British India at which it may be intended to discharge pilgrims shall, before any pilgrims disembark, deliver a statement signed by him, specifying the total number and the number of each sex of all the pilgrims on board and the number of the crew, and such other particulars as may be prescribed, to the officer appointed thereat under section 8.

Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power. Certain pilgrim ships to carry

26. Every pilgrim ship shall be propelled principally by steam, and shall be of the tonnage and steam-power (if any) prescribed.

27. Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed as prescribed and, if the number carried

*(Rules for Voyages of Pilgrim Ships. Secs. 28-32.)*

exceed one thousand, a second medical officer similarly licensed, and also in all cases such attendants as may be prescribed.

28. The medical officer or officers of every pilgrim ship shall keep such diaries and shall submit such reports or other returns as may be prescribed.

29. Every pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a certificate stating whether any case of cholera has or has not occurred on board since the ship left the port of last departure.

30. The authority at Aden empowered to grant the certificate required under section 29 may refuse to permit the ship to leave that port if the provisions of this Act or any rule thereunder are not complied with on board such ship.

31. In the case of every pilgrim ship proceeding from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance shall not grant the clearance unless or until the master, owner or agent and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(a) that the ship (if the voyage do not commence at Aden) shall touch at Aden on the outward voyage and there obtain the certificate required by section 29, and

(b) that the master and medical officer or officers (if any) shall comply with the provisions of this Act and the rules thereunder.

32. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in British India unless and until he has been medically inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf,<sup>1</sup> nor until the officer to whom notice has been given under section 8 has given permission for the embarkation of pilgrims to commence.

(2) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(3) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious

medical officers and attendants.

Medical officers' diaries and reports.

Pilgrim ships to touch at Aden on the outward voyage.

When authority at Aden may refuse to let ship leave.

Bond where pilgrim ship proceeds on outward voyage.

Medical inspection and permission required before embarkation of pilgrims.

<sup>1</sup> For rules regarding the medical inspection of pilgrims, see Bombay Government Gazette, 1896, Pt. I, p. 1103.

(*Rules for Voyages of Pilgrim Ships. Secs. 33-36. Penalties. Sec. 37.*)

disease, or are suspected of having been so contaminated, shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the Local Government for the purpose, in such manner as may be prescribed.

Medical inspection after embarkation in certain cases.

33. (1) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Local Government may direct.

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

Medical inspection of women.

34. So far as may be practicable, and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.

Issue and production of tickets and refund of passage-money.

35. (1) Every pilgrim shall be entitled on payment of his passage-money and fulfilment of the other prescribed conditions (if any) to receive a ticket in the prescribed form, and shall be bound to produce the same to such officers and on such occasions as may be prescribed, and otherwise to deal with the same in the prescribed manner.

(2) Every pilgrim prevented from embarking under section 32 or removed from the ship under section 33 or otherwise prevented from proceeding shall be entitled to the refund of any passage-money he may have paid, subject to any conditions or deductions which may be prescribed.

Sanitary taxes payable by master of pilgrim ship.

36. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited if and so far as such taxes are included in the cost of the tickets issued to the pilgrims.

#### *Penalties.*

Penalty on master or owner for pilgrim ship unlawfully departing or receiving pilgrims on board.

37. (1) If a pilgrim ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 7, sub-section (1), or section 10, the master or owner shall for every passenger carried in the ship, or so discharged (as the case may be), be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

(2) If any person is received as a pilgrim on board a pilgrim ship in contravention of the provisions of section 7, sub-section (2), the master or owner shall for every such pilgrim be liable to such punishment as is specified in sub-section (1).

(3) In either of the said cases the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

38. If any one impedes or refuses to allow any entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty for opposing entry on or inspection of pilgrim ship.

39. If the master or owner of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 17 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty on master or owner for not exhibiting copy of certificates.

40. If the master of a pilgrim ship fails to comply with any of the requirements of section 22, section 23 or section 25 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement, or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master for not complying with requirements as to statements concerning pilgrims and certain other matters.

41. If the master of a pilgrim ship, after having obtained any of the certificates mentioned in section 10 or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, the pilgrims on board or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty on master for fraudulent alteration in pilgrim ship after certificate obtained.

42. If the master of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any pilgrim the prescribed allowance of food, fuel and water, he shall be punished with fine which

Penalty on master for failing to supply pil-

grims with prescribed provisions. Penalty on master and owner for carrying pilgrims in excess of authorized number.

may extend to twenty rupees for every pilgrim who has sustained detriment by the omission.

43. (1) If a pilgrim ship has on board a number of pilgrims greater either than the number allowed under this Act or than the number allowed by the license or certificate (if any) granted at her port or place of departure, whichever shall be the smaller, the master and owner shall, for every pilgrim in excess of that number, be each punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such pilgrim: Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorized in this behalf by the Local Government may cause all pilgrims over and above the number allowed under this Act or by such license or certificate as aforesaid to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

Penalty on master for landing pilgrim at a place other than that at which he has contracted to land.

44. If the master of a pilgrim ship lands any pilgrim at any port or place other than the port or place at which such pilgrim may have contracted to land unless with his previous consent or unless the landing is made necessary by perils of the sea or other unavoidable accident, he shall for every such offence be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty on master and owner for making voyage in contravention of contract with pilgrims.

45. If a pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master and owner of pilgrim ship not propelled principally by steam or of prescribed tonnage or steam-power.

46. If a pilgrim ship is not propelled principally by steam or is not of the prescribed tonnage or steam-power as required by section 26, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.



(Penalties. Secs. 47-50. Procedure. Secs. 51-53.)

47. If a pilgrim ship carrying more than one hundred pilgrims has not on board a medical officer, or two medical officers if the number of pilgrims carried exceed one thousand, and also the prescribed attendants as required by section 27, the master shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master of pilgrim ship sailing without medical officer or attendants in contravention of section 27.

48. If the master of a pilgrim ship proceeding from any port in British India other than Aden to any port in the Red Sea, without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained the certificate required by section 29, he shall for every such offence be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty on master for not obtaining certificate at Aden on outward voyage.

49. If the master of a pilgrim ship knowingly receives on board any pilgrim or any contaminated article in contravention of the provisions of section 32, or keeps on board any pilgrim or article ordered to be removed under section 33, he shall be punished with fine which may extend to five hundred rupees for each pilgrim or fifty rupees for each article so received or kept on board, or with imprisonment which may extend to three months, or with both.

Penalty on master receiving or keeping on board pilgrim or article in contravention of section 32 or 33.

50. If the master or the medical officer (if any) of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.

### Procedure.

51. (1) Offences against this Act shall be punishable by a Magistrate.

(2) If the person on whom a fine is imposed under this Act is the master or owner of a pilgrim ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of such pilgrim ship, her tackle, furniture and apparel.

Adjudication of offences and levy of fine by distress of pilgrim ship.

52. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Jurisdiction.

53. The penalties to which masters and owners of pilgrim ships are made

Authority to

*(Procedure. Secs. 54-55. Supplemental. Sec. 56.)*

institute proceedings for penalties.

liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Application of fines.

54. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in or towards compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution, or in rewarding any person upon whose information the conviction took place or who has been otherwise instrumental in the detection or prosecution of the offender.

Depositions of absent witnesses.

55. (1) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted:

Provided that the deposition shall not be admissible unless—

- (a) it is authenticated by the signature of the Justice, Magistrate or consular officer;
- (b) it was made in the presence of the person accused; and
- (c) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

### *Supplemental.*

Information to be sent to ports of embarkation and discharge.

56. (1) The Chief Customs-officer or other officer (if any) appointed by the Local Government in this behalf at any port or place within British India at which a pilgrim ship touches or arrives shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting such pilgrim ship and the pilgrims carried therein to the officer at the port or place from which she commenced her voyage, and to the officer at any other port or

place within British India where the pilgrims or any of them embarked or are to be discharged.

(2) The Chief Customs-officer or other officer (if any) appointed by the Local Government in this behalf at any port or place in British India at which a pilgrim ship touches or arrives may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of pilgrims and other matters have been complied with.

57. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had. Report of  
Consul.

58. (1) The Governor General in Council may make rules<sup>1</sup> consistent with this Act to regulate all or any of the following matters :— Power for  
Governor  
General in  
Council and  
Local  
Government  
to make  
rules.

- (a) the boats, anchors and cables to be provided on board pilgrim ships ;
- (b) the instruments for purposes of navigation to be supplied ;
- (c) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent and deal with such fires ;
- (d) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (e) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims ;
- (f) the scale on which and manner in which food, fuel and water are to be supplied to pilgrims, and the quality of such food, fuel and water ;
- (g) the quality, quantity, and storage of the cargo to be carried ;
- (h) the allotment of the upper-deck space between the various classes of pilgrims ;
- (i) the amount and distribution of the baggage of pilgrims ;
- (j) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;

<sup>1</sup> For rules made under the powers conferred by this section, see Gazette of India, 1896, Pt. I, p. 800, *ibid*, 1897, Pt. I, p. 851.

*(Supplemental. Sec. 58.)*

- (k) the form of the statements to be furnished by the master under sections 22 and 25 and the particulars to be entered therein ;
  - (l) the tonnage and steam-power to be required in the case of pilgrim ships, and the voyages to which and seasons at which such rules shall respectively apply ;
  - (m) the licensing and appointment of medical officers and other attendants in cases where they are required by this Act to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers ;
  - (n) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship ;
  - (o) the manner in which and the persons by whom the medical inspection of women shall be carried out ;
  - (p) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof ;
  - (q) the refund of passage-money to intending pilgrims who may not be permitted to embark or who having embarked may be removed from the ship under the powers conferred by sections 32 and 33 or who may otherwise for any unavoidable cause be prevented from proceeding in any pilgrim ship ;
  - (r) the functions of the master, medical officer or officers (if any) and other officers during the voyage ; and,
  - (s) generally, to carry out the purposes of this Act.
- (2) The Local Government may, with the previous sanction of the Governor General in Council, make rules<sup>1</sup> consistent with this Act to regulate—
- (a) the local limits within which, and the time and mode at and in which pilgrims shall be embarked or discharged at any port or place appointed under this Act in that behalf ; and
  - (b) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board.
- (3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

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<sup>1</sup> For rules made by the Government of Bombay, see Bombay Government Gazette, 1896, Pt. I, p. 1103.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

7. 59. All rules heretofore made under the Native Passenger Ships Act, 1387,<sup>1</sup> shall, so far as consistent with this Act, continue to be applicable to pilgrim ships unless and until they shall be superseded or altered by rules under this Act. Temporary continuance of existing rules.

60. The Local Government shall appoint such persons as it may think fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder. Appointment of officers.

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ACT No. XV OF 1895.<sup>2</sup>

[10th October, 1895.]

An Act to explain the Transfer of Property Act, 1882,<sup>3</sup> so far as relates to grants from the Crown, and to remove certain doubts as to the powers of the Crown in relation to such grants.

82. WHEREAS doubts have arisen as to the extent and operation of the transfer of Property Act, 1882,<sup>3</sup> and as to the power of the Crown to impose limitations and restrictions upon grants and other transfers of land made by it or under its authority, and it is expedient to remove such doubts; It is hereby enacted as follows :—

1. (1) This Act may be called the Crown Grants Act, 1895.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

Title, extent and commencement.

32. 2. Nothing in the Transfer of Property Act, 1882,<sup>3</sup> contained shall apply or be deemed ever to have applied to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of Her Majesty the Queen-Empress, her heirs or successors, or by or on behalf of the Secretary of State for India in Council to, or in favour of, any person whomsoever; but every such grant and transfer shall be construed and take effect as if the said Act had not been passed. Transfer of Property Act, 1882, not to apply to Crown grants.

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<sup>1</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 144.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 169, and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 339 and 355.

This Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1899.

<sup>3</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 40.

Crown grants  
to take effect  
according to  
their tenor.

3. All provisions, restrictions, conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law, statute or enactment of the Legislature to the contrary notwithstanding.

ACT No. I OF 1896.<sup>1</sup>

[10th January, 1896.]

An Act to amend the Indian Emigration Act, 1883.<sup>2</sup>

WHEREAS it is expedient to amend the Indian Emigration Act, 1883; <sup>2</sup> It XXI of is hereby enacted as follows:—

Amendment  
of section  
105, Act  
XXI, 1883.

1. In section 105, sub-section (1), of the said Act, for the words “under a contract” the words “under, or with a view to entering into, an agreement” shall be substituted.

Addition of  
new section  
after section  
105, Act  
XXI, 1883.  
Power to  
declare whole  
or part of  
Act and rules  
inapplicable  
to natives of  
India engag-  
ed for Her  
Majesty's  
Government  
to labour for  
hire in any  
country be-  
yond the  
sea.

2. After section 105 of the said Act the following section shall be added, namely:—

“106. The Governor General in Council may, from time to time, by notification in the Gazette of India,<sup>3</sup> declare that all or any of the provisions of this Act or the rules thereunder shall not apply, or shall apply subject to such conditions, modifications or restrictions as to the Governor General in Council may seem expedient, in the case of Natives of India departing out of British India under an agreement made with, or on behalf of, Her Majesty's Government to labour for hire in any country beyond the sea:

Provided that no notification under this section shall be issued unless the Governor General in Council is first satisfied that the fair treatment of Natives of India so departing out of British India has, by rules or otherwise, duly been secured.”

<sup>1</sup> Short title, “The Indian Emigration Act (1883) Amendment Act, 1896,” see the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 3; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 7 and 10.

<sup>2</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 668.

See Gazette of India, 1896, Pt. I, pp. 34 and 272, as to labourers engaged for the railway from Mombassa to Victoria Nyanza.

## THE COTTON DUTIES ACT, 1896.

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ACT No. II of 1896.<sup>1</sup>

[3rd February, 1896.]

## An Act to provide for the Imposition and Levy of certain Duties on Cotton Goods.

1894. WHEREAS it is expedient to repeal the Cotton Duties Act, 1894, and to impose certain duties on cotton goods ; It is hereby enacted as follows :—

### PRELIMINARY.

1. (1) This Act may be called the Cotton Duties Act, 1896.
- (2) It extends to the whole of British India ; and
- (3) It shall come into force at once.

Title, extent  
and com-  
mencement.

1894. 2. (1) The Cotton Duties Act, 1894, is hereby repealed.

Repeal.

(2) But all the provisions in respect of drawback contained in sections 17 to 24 of that Act shall be deemed to be in force in respect of all duty paid thereunder, and all sums recoverable, liabilities incurred, officers appointed or authorised, warehouses licensed and rules and directions made under that Act shall, so far as may be, be deemed respectively to be recoverable, and to have been incurred, appointed or authorised, licensed and made under this Act.

3. In this Act, unless there be something repugnant in the subject or context,—

Definitions.

1878. (1) “ the Principal Act ” means the Sea Customs Act, 1878 :<sup>2</sup>

(2) “ Chief Customs Authority ” means, in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces and the Chief Commissioner of Oudh, the Board of Revenue ; in the Presidency of Bombay outside Sind, the Commissioner of Customs ; in Sind, the Commissioner ; in the Punjab and Burma, the Financial Commissioner ; and elsewhere the Local Government or such officer as the Local Government may, by notification

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 18 ; for Report of the Select Committee, see *ibid.*, Pt. IV, p. 11 ; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 20 and 36.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 168.

## (Preliminary Sec. 4. Part I.—Excise. Sec. 5.)

in the official Gazette, appoint in this behalf by name or in virtue of his office:<sup>1</sup>

(3) "Collector" means—

- (a) at Calcutta, Bombay, Madras, Rangoon and Karachi, the Collector of Customs, and
- (b) in any other place, the Collector or Deputy Commissioner of the District or such other officer as the Local Government may appoint in this behalf, and includes
- (c) every officer for the time being duly authorised by the Local Government to perform all or any of the duties of a Collector under this Act:<sup>2</sup>

(4) "cotton yarn" or "yarn" means yarn wholly or partly composed of cotton fibres:

(5) "cotton goods" or "goods" includes all tissues and other articles (except yarn and thread), woven, knitted or otherwise manufactured wholly or partly from cotton yarn:

(6) "mill" means any building or place where cotton goods are woven, knitted or otherwise manufactured by machinery moved otherwise than by manual labour, and includes every part of such building or place:

(7) "warehouse" means a place licensed for the storage of goods under this Act, and includes every public or private warehouse duly appointed or licensed under section 15 or 16 of the Principal Act,<sup>3</sup> or under section 2 of the Inland Bonded Warehouses Act, 1887:<sup>4</sup>

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(8) "customs-port," "foreign port," "vessel" and "master" have respectively the meanings defined for them in the Principal Act.<sup>5</sup>

Performance  
of duties of  
Customs-  
officers by  
subordinate  
officers.

4. The officers subordinate to a Collector shall, unless the Local Government shall otherwise so direct, for the purposes of this Act, perform the duties imposed and exercise the powers conferred upon officers of Customs under the Principal Act.<sup>6</sup>

## PART I.

## EXCISE.

*Application of Principal Act.<sup>7</sup>*

Modifications

5. In the application of the Principal Act,<sup>8</sup> or any particular section or

<sup>1</sup> For appointment in virtue of the powers conferred by this section in Bombay, see the Bombay List of Local Rules and Orders, Ed. 1896, Vol. I, p. 548.

<sup>2</sup> For officers appointed to perform the duties of a Collector in the Presidency of Bombay, under ss. 8, 15 and 30, see Bombay List of Local Rules and Orders, Ed. 1896, Vol. I, p. 548.

<sup>3</sup> The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1), *supra*.

<sup>4</sup> See now the Inland Bonded Warehouses Act, 1896 (III of 1896), s. 3 (2) of which directs that this reference shall be read as if it were made to that Act, printed, *infra*, p. 273.

sections thereof to this Part the following modifications shall be made therein, namely :—

to be made in principal Act as applied to this Part.

- (a) "the owner of the goods" shall include the managing agent or other principal officer of a mill ;
- (b) for "the bill-of-entry" or "shipping-bill" shall be substituted "the return required by this Act" ;
- (c) every reference to a warehouse, or warehousing, shall be construed as referring to a "warehouse" as hereinbefore defined.

#### *Duty.*

6. There shall be levied and collected at every mill in British India, upon all cotton goods produced in such mill, a duty at the rate of  $3\frac{1}{2}$  per centum on the value of such goods.

Imposition of duty on cotton goods produced in British Indian mills

*Explanation.*—Goods are said to be produced within the meaning of this section when they are issued out of the premises of the mill. But, in the case of any mill in which the goods are chiefly or largely made up and sold otherwise than as piece-goods, the Governor General in Council may direct that goods shall be reckoned as produced when they are issued out of the weaving section or sections of the mill.

7. (1) The Governor General in Council may, from time to time, by notification in the Gazette of India, fix, for the purpose of levying the said duties, tariff values of all such goods<sup>1</sup> as aforesaid or of any particular description or descriptions thereof, and alter any tariff values for the time being in force.

Power to Governor General in Council to fix tariff values of such goods.

(2) Such tariff value shall, for the purposes of this Act, be deemed to be the "real value" of the goods to which it applies, but save as aforesaid all goods shall be assessed under this Act at their real value.

(3) For the purposes of this Act the real value shall be deemed to be—

- (a) the wholesale cash price, less trade discount for which goods of the like kind and quality are sold or are capable of being sold at the time and place of production, without any abatement or deduction whatever, except of the amount of the duties payable on the production thereof ;
- (b) where such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such place, without any abatement or deduction, except as aforesaid.

8. (1) The owner of every mill shall prepare and deliver, or cause to be

Delivery of monthly

<sup>1</sup> For notification issued under this power, fixing the tariff values on unbleached cotton (grey) goods, see Gazette of India, 1897, Pt. I, p. 121.

returns of  
goods pro-  
duced by  
mill-owners.

prepared and delivered, to the Collector each month a return of all the cotton goods produced at his mill during the preceding month; and shall subscribe a declaration of the truth of such return at the foot thereof.

(2) Unless otherwise prescribed by any rules under this Act, every such return shall state for each description of goods the quantity produced during the period to which the return relates, and the real value of such goods.

(3) Every such return shall also contain such further information and be in such form and be subject to such conditions as to verification and otherwise as may be prescribed by any rules under this Act.

(4) Each return shall be delivered to the Collector or posted to his address within three working days, and at most within seven days, of the period to which it relates; and the first of such returns shall be made for the month of February, 1896, and shall include all goods produced since the commencement of this Act.

*Explanation.*—"Working day" in this sub-section means every day except a public holiday as defined in section 25 of the Negotiable Instruments Act, 1881.<sup>1</sup>

Assessment  
of duty and  
notice  
requiring  
payment.

9. (1) The Collector shall assess the duties payable in respect of the period to which the return relates, and unless the amount thereof is immediately tendered shall cause a notice, in such form as may be prescribed by any rules under this Act, to be served on the owner requiring him to make payment of the amount assessed within ten days of the date of service of the said notice.

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(2) A notice under sub-section (1) may be served on the owner of a mill by delivering or tendering to him or his agent at his ordinary place of business a copy of the notice, or, if this cannot be conveniently done, by fixing a copy of the notice on one of the outer doors of the mill.

Application  
of certain  
sections of  
principal Act  
to assessment  
and recovery  
of duty under  
this Act.

10. Sections 31 to 34, 37, and 39 to 41, all inclusive, of the Principal Act,<sup>2</sup> shall apply to the assessment and recovery of the duties imposed by this Act:

Provided that the rate of duty and the tariff valuation applicable to any goods which have not been warehoused as hereinafter provided shall be those in force at the time when the goods were produced, and not when the return was delivered as provided by the said section 37.

Recovery of  
unpaid duty

11. (1) If any duty payable under this Act is not paid within the time fixed by any such notice as aforesaid for the payment thereof, the Collector may, in lieu thereof, recover any sum not exceeding double the amount of

<sup>1</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 399.

<sup>2</sup> The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1), *supra*.

*(Part I.—Excise. Secs. 12-16.)*

duty so unpaid, which he shall, in his discretion, think it reasonable to require.

(2) All sums recoverable under sub-section (1) shall be recovered in the manner provided in Act II of 1886,<sup>1</sup> section 30, sub-sections (1), (2) and (3), with respect to the sums therein referred to.

*Warehousing.*

12. (1) The Chief Customs Authority may from time to time license any room or place as a warehouse for the storage of cotton goods, and for the purposes of this Act every such room or place shall be deemed to be a warehouse and to have been duly licensed under the Principal Act.<sup>2</sup>

Licensing of warehouses for storage of goods and fees for same.

(2) There shall be payable in respect of every such warehouse such and the like licensing fees and other payments as may for the time being be payable in respect of a private warehouse licensed under the Principal Act:<sup>2</sup>

Provided that the Chief Customs Authority may remit the whole or any part of such fees or other payments in respect of any particular warehouse.

13. (1) The owner of any mill may apply for leave to deposit in a warehouse any goods in respect of which duty has become leviable under section 6 but has not yet been assessed under section 9.

Permission to deposit goods in warehouses.

(2) Such application shall be in writing signed by the applicant, and shall be in such form as may be prescribed by the Chief Customs Authority.

14. All the provisions of Chapter XI of the Principal Act,<sup>2</sup> so far as the same are applicable to imported goods of a similar description, shall apply to all goods in respect of which an application has been made under section 13.

Application to goods so deposited of provisions of Chapter XI of Principal Act. Exemption from assessment of goods so deposited.

15. When any goods have been deposited in a warehouse, the quantity and particulars thereof shall be specified as so deposited in the return made under section 8 for the period in which the goods were produced, or in a separate return for that same period, and the said goods shall be deducted in the assessment and collection of duty.

*Inspection.*

16. (1) The Collector, or any officer duly appointed by the Local Government in that behalf, shall have free access at all reasonable times during working hours to any mill and, subject to any order of the Local Government in this behalf, to any part of any mill.

Power to Collector to inspect mills and take copies of records and accounts.

(2) Any such officer may at any time, with or without notice to the owner, examine the working records, sale records, and accounts of any mill,

<sup>1</sup> The Indian Income-tax Act, 1886, printed, General Acts, Vol. V, Ed. 1898, p. 31.

<sup>2</sup> The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1), *supra*.

## (Part I.—Excise. Secs 17-19.)

and take copies of, or extracts from, all or any of the said records or accounts, for the purpose of testing the accuracy of any return, or of informing himself as to any particulars regarding which information is required for the purposes of this Act or any rules thereunder.

(3) Any mill-owner may object to submitting to any officer under the rank of a Collector any record or account containing the description or formulæ of any trade process :

but, if he objects to the inspection of any record or account by such an officer on the ground of its containing such description or formulæ, he must submit his objection in writing to the officer for transmission to the Collector, and the officer may then and there seal up the record or account pending the orders of the Collector.

Information  
acquired to  
be deemed  
official secrets  
within mean-  
ing of Act  
XV, 1889.

17. (1) All such copies and extracts, and all other information acquired by any such officer on the inspection of any mill or warehouse, shall be regarded as strictly confidential, and shall be deemed to be official secrets.

(2) If any such officer shall disclose to any person other than a superior officer any such official secret as aforesaid without the previous consent in writing of the Chief Customs Authority, he shall be guilty of a breach of official trust, and shall, upon conviction thereof, be punishable in the manner provided by section 4 of the Indian Official Secrets Act, 1889.<sup>1</sup>

XV of 1889

(3) The restriction imposed by section 5 of the last-mentioned Act shall not apply to a prosecution for a breach of an official trust under this Act.

*Export and Drawback.*

Grant of  
certificate  
when  
dutiable goods  
are to be  
exported to  
foreign port.

18. If any dutiable goods are exported by sea to any foreign port before the return in respect of them has been delivered to the Collector under section 8, the owner of the mill in which they were produced may apply in writing to the Customs Collector at the port of shipment, who, on being satisfied that such goods have actually been shipped for export, shall issue a certificate stating the quantity and particulars of such goods and that they have actually been so shipped.

When certifi-  
cate granted,  
goods to be  
exempt from  
duty.

19. When any certificate has been applied for under section 18, the quantity and particulars of the goods mentioned in the application shall be specified as so shipped in the return made under section 8 for any period not later than that in which they were shipped, and, if the Collector is satisfied that the said goods have been so shipped and that the conditions (if any) imposed by rules under

<sup>1</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 353.

this Act have been complied with, the said goods shall be deducted in the assessment and collection of duty.

20. (1) When any dutiable goods are exported by sea from any customs port to any foreign port, the exporter may apply to the Customs Collector at the port of shipment for the repayment as drawback of any duty which may have been paid under this Act in respect of such goods.

Repayment of duty in case of certain cotton goods exported to foreign ports.

(2) In every application made under sub-section (1) the applicant must state the description or descriptions of the goods in respect of which drawback is claimed, the mill at which the goods were produced, and, as nearly as possible, the dates on which they were produced, and such further particulars, if any, as may be prescribed.

21. (1) The drawback shall be allowed by the Collector if it is shown to his satisfaction that the goods in respect of which drawback is applied for have paid duty within twelve months of the date on which they are shipped for export, and that the conditions (if any) imposed by rules under this Act have been complied with.

When such refunds may be granted.

(2) Drawback shall not cease to be admissible merely by reason of the goods in respect of which it is applied for having been bleached, dyed, coloured or printed after having been produced within the meaning of section 6.

22. (1) The Governor General in Council may, from time to time, by notification in the Gazette of India, prohibit the payment of drawback on the exportation of cotton goods to any specified foreign ports.

Power to prohibit repayment of duty in case of exportation to certain ports.

(2) Any notification already made under section 22 of the Cotton Duties Act, 1894,<sup>1</sup> shall be deemed to have been made under this section.

23. Notwithstanding anything herein contained, no drawback shall be allowed in respect of any cotton goods on which duty has been paid—

No repayment of duty to be granted in certain cases.

(a) when the goods are of less value than the amount of drawback claimed, or

(b) when the claim is for drawback amounting to less than five rupees in respect of any single shipment.

24. Sections 51 and 52 of the Principal Act<sup>2</sup> shall apply to every claim for drawback under this Act.

Application of sections 51 and 52 of Principal Act to claims under this Act. Punishments for offences.

### *Offences and Penalties.*

25. The offences mentioned in the first column of the following schedule

<sup>1</sup> Repealed by this Act.

<sup>2</sup> The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1), *supra*.

## (Part. I.—Excise. Sec. 25.)

shall be punishable to the extent mentioned in the second column thereof with reference to such offences respectively :—

1. Contravening any rule made under this Act. Penalty not exceeding five hundred rupees.
2. Concealing or attempting to conceal, or knowingly permitting or procuring to be concealed, any goods liable to duty under this Act with intent to evade payment of the duty or any part thereof. Such goods shall be liable to confiscation, and every person convicted of the offence shall be liable to a penalty not exceeding three times the value of the goods.
3. Omitting to make any return required by section 8 or refusing to sign or complete the same. Penalty not exceeding one thousand rupees.
4. Making and delivering any such return containing any statement not true to the best of the information and belief of the person making the same. The penalty provided in the Indian Penal Code,<sup>1</sup> section 199, for making a false statement in a declaration. XLV of 1860
5. Altering or falsifying any record or book of account kept in the mill with the intention of defrauding the revenue. The penalty provided in the Indian Penal Code,<sup>2</sup> section 465, for the commission of forgery.
6. Omitting, without reasonable cause, to keep samples as provided in section 28. A penalty for each offence not exceeding two hundred rupees.
7. Omitting to keep such proper records and books of account as may be prescribed by any rule under this Act. Penalty not exceeding five hundred rupees and a further penalty of twenty rupees for every day after the date of the conviction during which the offence is continued.
8. Omitting to make and deliver any return which by any rule under this Act ought to have been made and delivered. Penalty not exceeding one thousand rupees.
9. Intentionally obstructing any Collector or other officer in the exercise of any powers given under this Act. Imprisonment for a term not exceeding six months, or fine not exceeding one thousand rupees, or both.
10. If any goods in respect of which a certificate has been obtained under section 18, or any goods on the entry of which for export drawback has been paid, are not duly exported or are unshipped or relanded at any customs port, not having been duly relanded or discharged under the provisions of the Principal Act.<sup>3</sup> Such goods, together with any vessel used in the unshipping or relanding them, shall be liable to confiscation, and the master of the vessel from which such goods are so unshipped or relanded, and any person by whom or by whose orders or means such goods are so unshipped or relanded, or who aids or is concerned in such unshipping or relanding, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees.

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>2</sup> The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1), *supra*.



(Part I.—*Excise. Secs. 26-28.*)

11. If any goods are entered for drawback which are of less value than the drawback claimed. Such goods shall be liable to confiscation.
12. If any goods are found concealed in any place, box or closed receptacle in any mill and are not duly accounted for to the satisfaction of the Collector. Such goods shall be liable to confiscation.
13. If any goods are found in any mill in excess of the quantity entered in the return or not corresponding with the statement therein contained. Such goods shall be liable to confiscation or to be charged with such increased duty as the Chief Customs Authority may direct.
14. If when any cotton goods are passed by tale or by package any omission or misdescription thereof tending to injure the revenue be discovered. The person guilty of such omission or misdescription shall be liable to a penalty not exceeding ten times the amount of duty which might have been lost to the Government by such omission or misdescription, unless it be proved to the satisfaction of the Collector or other officer that the variance was accidental.
15. If any Collector or officer subordinate to a Collector does any act or is guilty of any omission in contravention of this Act or of any rule or order made thereunder; or, with intent to cause injury or annoyance to any person, vexatiously and unnecessarily makes use of any power conferred upon him under this Act. Such Collector or officer shall be liable on conviction to a fine not exceeding five hundred rupees.
16. The offences described in the Principal Act,<sup>1</sup> section 167, Schedule Nos. 41 -- 53, both inclusive, in reference to warehousing of dutiable goods. The penalties prescribed in the same Schedule in respect of such offences respectively.

26. All offences against this Act may be tried summarily by a District or Presidency Magistrate or a Magistrate of the First Class.

27. Section 168 of the Principal Act<sup>1</sup> shall apply to all cases of confiscation of goods under this Act.

*Miscellaneous.*

28. (1) The owner of every mill shall, in the case of any goods other than those for which tariff values have been fixed under section 7, take a sample or samples of such goods, at the time of manufacturing the same, and shall preserve such samples for reference for at least six months after the said goods are produced.

(2) Such samples shall be at all times available for inspection by the Collector, or by any officer appointed under section 16; and an examination thereof shall, if the goods themselves cannot conveniently be examined, be

Magistrates having jurisdiction. Application of section 168 of Principal Act to cases of confiscation under this Act.

Samples of certain goods to be taken by mill-owners at time of manufacture and to be available for inspection.

<sup>1</sup> The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1), *supra*.

deemed to be an examination of the goods within the meaning of section 31 of the Principal Act.<sup>1</sup>

(5) The Governor General in Council may define by rule what shall in any specified case be a sufficient sample for the purposes of this section.

Power to  
Collector to  
take samples.

29. (1) The Collector or any officer appointed under section 16 may at any time take samples of any goods for examination or for ascertaining the value thereof, or for any other necessary purpose.

(2) The owner may when required to deliver any sample to an officer appointed under section 16 seal up such sample in a cover addressed to the Collector; and in such case the said officer shall deliver such cover intact to the Collector.

(3) Every sample shall, if practicable, be restored to the owner, or, at his option, sold by the Collector, and the proceeds accounted for to the owner.

Records and  
accounts to  
be kept by  
mill-owners.  
Mill-owners  
to make  
periodical  
returns of  
cotton yarn  
spun by  
machinery.

30. The owner of every mill shall keep such records and books of account as may be prescribed by any rules under this Act.

31. The owner of every mill or place where cotton yarn is spun by machinery moved otherwise than by manual labour shall make periodical returns to the Collector of the quantity and description of all such yarns, in such form, with such particulars, and at such intervals, as may be prescribed by any rule under this Act.

Application  
of certain  
provisions  
of Principal  
Act to pro-  
ceedings  
under this  
Act.

32. All the provisions of Chapter XVII of the Principal Act,<sup>1</sup> except sections 169, 170, 177, 182, 184, 185, 187, 190, 191 and 193, shall apply to all proceedings under this Act.

Power to  
Local Gov-  
ernment to  
reverse or  
modify  
orders under  
this Act.  
Certain pro-  
visions of  
principal Act  
to be incor-  
porated in  
this Act.  
Application  
of section 10,  
Act VIII,  
1894, to  
duties under  
this Act.

33. The Local Government may, on the application of any person aggrieved by any decision or order passed under this Act, reverse or modify such decision or order.

34. The provisions of sections 198, 201, 204, 205 and 206 of the Principal Act<sup>1</sup> shall be deemed to be incorporated in this Act.

35. The provisions of section 10 of the Indian Tariff Act, 1894,<sup>2</sup> shall VIII of 18 apply to duties on cotton goods imposed under this Act.

<sup>1</sup> The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (2), *supra*.

<sup>2</sup> Printed, *supra*, p. 123.

(Part I.—*Excise. Sec. 36. Part II.—Inland Customs Duties. Sec. 37.*)

36. (1) The Governor General in Council may from time to time make rules<sup>1</sup> under this Act,—

Power to Governor General in Council to make rules.

- (a) prescribing the form of any return required by or under this Act and the particulars to be contained therein respectively, and the manner in which the same is to be verified, and all such other conditions in respect thereof as may be necessary ;
- (b) requiring returns of yarns spun ;
- (c) prescribing the form of the notice to be issued by the Collector under section 9 ;
- (d) regulating the inspection of mills, and the powers and duties of Collectors and other officers in respect thereof ;
- (e) regulating the provision of warehouses under this Act, and the deposit and discharge of goods therein and therefrom, and the powers and duties of the Collector in respect thereof ;
- (f) prescribing the records and books of account to be kept by owners of mills under this Act ;
- (g) prescribing the conditions under which alone exemption from duty and repayment as drawback shall be allowed under sections 19 and 21 ; and,
- (h) generally, for carrying into effect the provisions of this Act.

(2) The application of any such rule may be confined to any place or places specified therein.

## PART II.

### INLAND CUSTOMS DUTIES.

37. (1) Duties of customs shall be levied at the rates for the time being prescribed in the Indian Tariff Act, 1894,<sup>2</sup> upon cotton goods passing into British India out of any territory declared, under the power hereinafter in this section conferred, to be foreign territory.

Levy of duties on cotton goods passing into British India from foreign territory.

(2) The Governor General in Council may, by notification in the Gazette of India, declare that any territory situated within or bordering on, but not forming part of, British India shall be deemed, for the purposes of this section, to be foreign territory.

(3) The Governor General in Council may, from time to time, by notification in the Gazette of India, prohibit or restrict the bringing of cotton goods

<sup>1</sup> For rules made under this section, see Gazette of India, 1896, Pt. I, p. 127, and *ibid.*, 1897, Pt. I, p. 16.

<sup>2</sup> Printed, *supra*, p. 123.

(Part II.—Inland Customs Duties. Sec. 38. Part III.—Transitory Provisions. Secs. 39-40.)

into British India from any such foreign territory, or prescribe the routes by which alone they may be brought.

(4) The provisions of section 19A of the Principal Act<sup>1</sup> shall apply to all goods brought or attempted to be brought into British India in contravention of any such notification.

38. The provisions of the Principal Act<sup>1</sup> as to drawback on export shall apply to all goods upon which duty has been paid under this Part.

Application of provisions of Principal Act as to drawback to goods taxed under this Part.

### PART III.

#### TRANSITORY PROVISIONS.

Drawback in respect of yarns in mills produced, purchased or imported before the 23rd January, 1896.

39. If any mill-owner has in his mill, at the commencement of this Act, any yarns which, before the twenty-third day of January, 1896,—

- (a) were produced at his mill within the meaning of clause (b) of the *explanation* to section 5 of the Cotton Duties Act, 1891,<sup>2</sup> or
- (b) were obtained by purchase or on account from another mill-owner, after having been produced by the latter, within the meaning of clause (c) of the said *explanation*, or
- (c) were imported and customs-duty paid thereon, and have not before the commencement of this Act formed part of any goods produced within the meaning of this Act, he shall be entitled to receive, by way of deduction from the amount of duty payable in respect of any goods produced out of such yarns at any time within three months after the passing of this Act, an amount not exceeding the duty which he may show to the satisfaction of the Collector to have been paid upon such yarns, under the operation of the Cotton Duties Act, 1891,<sup>2</sup> or the Indian Tariff Act, 1894 :<sup>3</sup>

XVII of 1894.

VIII of 189

Provided that the said yarns shall not have been used solely for borders.

Mode of making claims for drawback under section 39.

40. (1) Any mill-owner who intends to claim drawback under section 39 shall within a week after the passing of this Act deliver to the Collector a full statement showing,—

with respect to clauses (a) and (b) of the said section, the quantity and count of yarn and, as far as possible, the monthly returns in which they were included ;

<sup>1</sup> The Sea Customs Act, 1878 (VIII of 1878), see s. 3 (1) *supra*.

<sup>2</sup> Repealed by this Act.

<sup>3</sup> Printed, *supra*, p. 123.

(Part III.—Transitory Provisions. Secs. 41-42.)

with respect to clause (c) of the said section, the quantity and count of yarn and the date and particulars of the payment of import duty thereon.

(2) Such statement shall be subscribed and verified by the mill-owner, and the Collector may, by inspection or otherwise, satisfy himself of its correctness.

(3) No deduction shall be allowed under section 39 unless the yarns in respect of which deduction is claimed have been included in the statement prepared under this section.

41. (1) No duty shall be levied under this Act on any goods which at the commencement of this Act are upon the premises of any mill and are ready for issue therefrom, either without undergoing any further process, or after being made up into bales or packets :

Provision with respect to goods in stock.

Provided that a list of such goods be made up and deposited with the Collector within seven days from the commencement of this Act.

(2) The returns of the production of such goods prepared under section 8 of this Act shall be separate from those of other goods.

42. The return of yarn prescribed by section 7 of the Cotton Duties Act, 1894, which would, but for the repeal of the said Act, become due for delivery to the Collector on or before the fifteenth day of February, 1896, shall be prepared and delivered as if the said Act were still in force ; but no duty shall be assessed or collected in respect of any yarn produced on or after the twenty-third day of January, 1896.

Return of yarn as under section 7, Act XVII, 1894, to be delivered in February, 1896, but no duty leviable on yarn produced on or after the 23rd January, 1896.

ACT No. III of 1896.<sup>1</sup>

[3rd February, 1896.]

### An Act to amend the Indian Tariff Act, 1894.<sup>2</sup>

WHEREAS it is expedient to repeal Schedules II to V, both inclusive, of the Indian Tariff Act, 1894,<sup>3</sup> as amended by Act XVI of 1894,<sup>3</sup> and to substitute other Schedules for them ; It is hereby enacted as follows :—

<sup>1</sup> Short title, "The Indian Tariff Act (1894) Amendment Act, 1896," see the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 34 ; for Report of the Select Committee, see *ibid*, Pt. IV, p. 29 ; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 21 and 75.

<sup>2</sup> Printed, *supra*, p. 123.

<sup>3</sup> The Indian Tariff Act, 1894 (XVI of 1894), is virtually repealed by this Act, and it has not therefore been republished.

(Sec. 1.)

Substitution  
of new  
Schedules for  
Schedule II  
to V, Act  
VIII, 1894, as  
amended by  
Act XVI,  
1894.

For Schedules II to V, both inclusive, appended to the said Indian Tariff VIII of 189 Act, 1894,<sup>1</sup> as so amended, the Schedules appended to this Act shall be substituted.

### SCHEDULES II to V. [Printed, *supra*, p. 127.]

ACT No. IV of 1896.<sup>2</sup>

[20th February, 1896.]

### An Act to amend the Indian Ports Act, 1889.<sup>3</sup>

WHEREAS it is expedient to amend the Indian Ports Act, 1889<sup>3</sup>; It is hereby enacted as follows :—

Amendment  
of section 6,  
Act X, 1889.

1. (I) In section 6, clause (o), of the said Act, the word “and” shall be omitted, and after clause (p) of the same section the following shall be added, namely :—

“and

(q) for securing the protection from heat of the officers and crew of vessels in any such port by requiring the owner or master of any such vessel—

(i) to provide curtains and double awnings for screening from the sun's rays such portions of the deck as are occupied by, or are situated immediately above, the quarters of the officers and crew ;

(ii) to erect windsails so far as the existing port-holes or apertures in the deck admit of their being used for ventilating the quarters of the officers and crew ;

(iii) when the deck is made of iron and not wood-sheathed, to cover with wooden planks or other suitable non-conducting material such portions of the deck as are situated immediately above the quarters of the officers and crew ;

(iv) when the quarters used by the crew and the galley are separated by an iron bulkhead only, to furnish a temporary screen of some suitable non-conducting material between such quarters and the galley.”

<sup>1</sup> Printed, *supra*, p. 123.

<sup>2</sup> Short title, “The Indian Ports Act (1889) Amendment Act, 1896,” see the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 41 ; for Report of the Select Committee, see *ibid*, 1896, Pt. V, p. 123, and for Proceedings in Council, see *ibid*, 1895, Pt. VI, p. 142, and *ibid*, 1896, Pt. VI, pp. 2, 85 and 93.

<sup>3</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 297

(Secs. 1-4.)

ACT No. V OF 1896.<sup>1</sup>

[27th February, 1896.]

## An Act to amend the Foreign Jurisdiction and Extradition Act, 1879.

WHEREAS it is expedient to amend the Foreign Jurisdiction and Extradition Act, 1879; It is hereby enacted as follows:—

1. In section 3 of the said Act, for the words “officer in British India” the words “officer of the Government of India or of any Local Government,” and for the words “the Governor in Council of the Presidency of Fort St. George or Bombay” the words “the Local Government,” shall be substituted.

Amendment of section 3, Act XXI, 1879.

2. To section 11 of the said Act the following shall be added, namely:—  
“The act of desertion from any body of Imperial Service Troops shall be deemed to be an offence in respect of which the Political Agent for the State to which such troops belong may issue a warrant under this section.”

Addition to section 11, Act XXI, 1879.

3. In section 12 of the said Act, after the words “and the accused person, when arrested, shall,” the words “unless released on bail in accordance with the provisions of the next following section,” shall be inserted.

Amendment of section 12, Act XXI, 1879.

4. After section 12 of the said Act the following sections shall be inserted namely:—

Insertion of new sections after section 12, Act XXI, 1879.

“12A. A Political Agent issuing a warrant for the arrest of any person under section 11 may in his discretion direct by endorsement thereon that, if such person executes a bond with sufficient sureties for his attendance before the officer mentioned in the warrant at a specified time, the Magistrate to whom the warrant is directed shall take such security and release such person from custody

Power to Political Agent to direct security to be taken and procedure thereon.

<sup>1</sup> Short title, “The Foreign Jurisdiction and Extradition Act (1879) Amendment Act, 1896,” see the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 156; for Report of the Select Committee, see *ibid*, 1896, Pt. V, p. 129; and for Proceedings in Council, see *ibid*, 1895, Pt. VI, p. 19, and *ibid*, 1896, Pt. VI, pp. 2, 94 and 107.

As being part of the Foreign Jurisdiction and Extradition Act, 1879 (XXI of 1879), printed, General Acts, Vol. III, Ed. 1898, p. 288, it is in force in Upper Burma (excluding the Shan States), see the Burma Laws Act, 1895 (XIII of 1898), printed, Burma Code, Ed. 1899.

It has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, see Gazette of India, 1896, Pt. II, p. 1004.

So much of the Act as was in force in Upper Burma at the date of the notification has, by notification under s. 8 (1) of the Upper Burma Laws Act, 1886 (XX of 1886), and ss. 4 and 5 of the Shan States Act, 1888 (XV of 1888), been declared in force in the Shan States, see Burma Gazette, 1898, Pt. I, p. 408.

"The endorsement shall state (a) the number of sureties (if any), (b) the amount in which they and the person for whose arrest the warrant is issued are to be respectively bound, and (c) the time and place at which he is to attend before the officer mentioned in the warrant.

"Whenever security is taken under this section, the Magistrate shall certify the fact to the Political Agent by whom the warrant was issued, and shall retain the bond.

Arrest on  
breach of  
bond to  
appear.

"12B. If the person bound by any bond executed under the last foregoing section to appear before the officer mentioned therein does not so appear, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and delivered over to such officer.

Application  
of sections  
513 and 514,  
Act X, 1882.

"12C. In the case of every bond required to be executed or which may have been executed in accordance with the foregoing provisions, the powers conferred by sections 513 and 514 of the Code of Criminal Procedure, 1882,<sup>1</sup> X of 1882, on the Court which has required the execution of or has taken a bond may be exercised by the Magistrate."

Addition to  
section 13,  
Act XXI,  
1879.

5. At the end of section 13 of the said Act the following shall be added, namely:—

"or, in the case of a deserter, by a duly constituted Military Court."

Addition of  
new section  
after section  
17, Act XXI,  
1879.

6. After section 17 of the said Act the following section shall be added, namely:—

Detention of  
persons ar-  
rested under  
section 54,  
clause *seventhly*, Act  
X, 1882.

"17A. Notwithstanding anything in the Code of Criminal Procedure, 1882,<sup>1</sup> X of 1882, any person arrested without an order from a Magistrate and without a warrant in pursuance of the provisions of section 54, clause *seventhly*, of the said Code,<sup>1</sup> may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 15 of this Act."

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.



ACT No. VI of 1896.<sup>1</sup>

[27th February, 1896.]

An Act to amend the Indian Penal Code.<sup>2</sup>

WHEREAS it is expedient to amend the Indian Penal Code;<sup>3</sup> It is hereby enacted as follows:—

1. (1) For the second paragraph of section 230 of the said Code the following shall be substituted, namely:—

Substitution  
of new para-  
graph for  
paragraph 2  
of section  
230 of Code.

“Queen’s coin is metal stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency, or of any Government in the Queen’s dominions, in order to be used as money; and metal which has been so stamped and issued shall continue to be the Queen’s coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.”

(2) To the illustrations appended to the said section the following shall be added, namely:—

“(e) The ‘Farukhabad rupee’, which was formerly used as money under the authority of the Government of India, is Queen’s coin, although it is no longer so used.”

ACT No. VII of 1896.<sup>3</sup>

[27th February, 1896.]

An Act to amend the Presidency Small Cause Courts Act, 1882.<sup>4</sup>

WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882;<sup>5</sup> It is hereby enacted as follows:—

1. In section 71 of the said Act the words and numerals “section 38 or” are repealed.

Amendment  
of section 71,  
Act XV,  
1882.

<sup>1</sup> Short title, “The Indian Penal Code Amendment Act, 1896, see the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 157; for Report of the Select Committee, see *ibid.*, 1896, Pt. V, p. 133; and for Proceedings in Council, see *ibid.*, 1895, Pt. VI, p. 320, and *ibid.*, 1896, Pt. VI, pp. 294 and 109.

As being part of Act XLV of 1860, it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1899.

It was also extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874) to British Baluchistan, see Gazette of India, 1896, Pt. II, p. 1004.

It is in force in tracts in the Chin Hills to which the Chin Hills Regulation, 1896 (V of 1896), has been extended as being part of Act XLV of 1860, which is included in the Schedule to that Regulation.

<sup>2</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>3</sup> Short title, “The Presidency Small Cause Courts Act (1882) Amendment Act, 1896,” see the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 127; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 91 and 110.

<sup>4</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 590.

ACT No. VIII OF 1896.<sup>1</sup>

[5th March, 1896.]

An Act to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses; It is hereby enacted as follows:—

Title, construction and commencement.

1. (1) This Act may be called the Inland Bonded Warehouses Act, 1896.

(2) It shall be read with, and taken as part of, the Sea Customs Act, 1878<sup>2</sup>; VIII of 1878 and

Extent.

(3) It shall come into force at once.

2. Sections 5 to 7, both inclusive, of this Act shall extend only to such parts of British India as the Governor General in Council may from time to time, by notification in the Gazette of India, direct in this behalf.<sup>3</sup>

#### *Inland Bonded Warehouses.*

Repeal.

3. (1) The Inland Bonded Warehouses Act, 1887, is hereby repealed.

XXI of 1887

(2) The reference to that Act in section 3, clause (7), of the Cotton Duties Act, 1896,<sup>4</sup> shall be read as if it were made to this Act.

II of 1896.

Inland bonded warehouses and law applicable thereto.

4. (1) Notwithstanding anything contained in the Sea Customs Act, 1878,<sup>2</sup> the Chief Customs-authority may from time to time, with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license.

VIII of 1878

(2) In reference to such a place and a warehouse appointed or licensed thereat the provisions of the said Act with respect to the levy of customs-duties on goods brought in bond from one customs-port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 54; for Report of the Select Committee, see *ibid*, 1896, Pt. V, p. 145, and for Proceedings in Council, see *ibid*, 1895, Pt. VI, p. 238, and *ibid*, 1896, Pt. VI, pp. 2, 104 and 114.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 168.

<sup>3</sup> Ss. 5 to 7 have been extended to the territories administered by the Government of Bengal, see Gazette of India, 1897, Pt. I, p. 161.

<sup>4</sup> Printed, *supra*, p. 261.

(Secs. 5-7.)

(3) All rules applicable to such warehouses, and to the weighment and removal thereto of salt, and in force at the commencement of this Act, shall remain so applicable until they shall be duly superseded or altered.

(4) Every warehouse appointed or licensed under the provisions of the Inland Bonded Warehouses Act, 1887,<sup>1</sup> shall be deemed to have been appointed or licensed under this Act.

*Salt Tine-Bonds.*

3. 5. Notwithstanding anything contained in the Sea Customs Act, 1878,<sup>2</sup> or in section 4 of this Act, the Chief Customs-authority may permit salt removed from ship board or from a warehouse appointed or licensed under the Sea Customs Act, 1878,<sup>2</sup> to be conveyed, under a bond securing the subsequent payment of the duty leviable in respect of the salt so removed and in accordance with such rules as may be prescribed in this behalf by the Local Government, to a warehouse appointed or licensed for that purpose by the Chief Customs-authority.

Conveyance of salt to inland bonded warehouses under bonds.

6. Every bond executed in accordance with the provisions of the last preceding section shall be in the form hereto annexed, or, when such form is inapplicable or insufficient, in such other form as is from time to time prescribed by the Chief Customs-authority :

Form of bond.

Provided that the time allowed by such bond for the payment of the duty leviable on the salt included therein shall not exceed the time within which it may reasonably be expected that the whole of such salt shall have passed into consumption, and shall in no case exceed six months :

Provided, also, that the Chief Customs-authority may at any time require the duty to be paid to the extent to which the salt may have been delivered from the warehouse.

7. The Local Government may, with the previous sanction of the Governor General in Council, make rules,<sup>3</sup> consistent with the provisions of this Act, to regulate—

Power to make rules.

- (1) the appointment or licensing of warehouses under section 5 ;
- (2) the inspection by Government officers of such warehouses ;
- (3) the safe custody of salt in transit under the provisions of the said section ;
- (4) the removal of salt from a warehouse appointed or licensed under the said section ;

<sup>1</sup> Repealed by this Act.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 108.

<sup>3</sup> For rules made by the Government of Bengal under this section, see Calcutta Gazette, 1897, Pt. I, p. 305.

(Sec. 8.)

(5) the nature of the security to be required from a person executing a bond in accordance with the provisions of the said section and the time and place of payment of the sum recoverable under such bond; and

(6) generally such other matters as may be deemed necessary to secure the safety of the public revenue.

Saving.

8. Nothing in section 5 or section 6 shall prevent the removal of salt in any manner in which it may for the time being be lawfully removeable under section 4.

## FORM OF BOND.

(See section 6.)

No. 189 .

We, A. B.,

now of

; and C. D.,

, of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government rupees to be paid to the said Secretary of State in Council for which payment we jointly and severally bind ourselves and our legal representatives.

(Date)

(Signed)

The above bounden , having applied to the officer in charge of the Custom-house at for and obtained permission to lodge in a warehouse appointed or licensed under the Inland Bonded Warehouses Act, 1896, and situated at , for a period of months, the following goods, that is to say, maunds of salt imported by sea from

on board of the ship and entered in the Custom-house books as No. of the Register of goods imported by sea;

The condition of this bond is that

If the said or their legal representatives shall observe all the rules prescribed under the said Inland Bonded Warehouses Act, 1896, to be observed by the owners of goods warehoused and persons obtaining permission to warehouse goods under the provisions thereof;

And if the said or their legal representatives shall pay to the officer in charge of the Custom-house at the port of , or

(Secs. 1-2.)

to the Collector of \_\_\_\_\_, all dues, including customs-duties or other lawful charges, which shall be demandable on the said salt or on account of penalties incurred in respect thereto, within \_\_\_\_\_ from the date of this bond, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said officer in charge of the Custom-house;

And if, within the term so fixed or such further period (if any) as may be granted by the Chief Customs-authority for the payment thereof, the full amount of all customs-duties and other lawful charges, penalties and interest demandable as aforesaid shall have been first paid on the whole of the said salt;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in force

(Date)

(Signed) ( \_\_\_\_\_ ).

ACT No. IX OF 1896.<sup>1</sup>

[5th March, 1896.]

An Act to amend the Indian Railways Act, 1890.<sup>2</sup>

WHEREAS it is expedient to amend the Indian Railways Act, 1890;<sup>3</sup> It is hereby enacted as follows:—

1. In section 7, sub-section (1), clause (a), of the said Act, after the word “roads,” in the second place in which it occurs, the words “lines of railway” shall be added.

Amendment  
of section 7,  
Act IX,  
1890.

2. In section 10, sub-section (2), of the said Act, for the latter part of the sub-section after the words “so far as may be” the following shall be substituted, namely:—

Amendment  
of section 10,  
sub-section  
(2), Act IX,  
1890.

“with the provisions of sections 11 to 15, both inclusive, sections 18 to 34,

<sup>1</sup> Short title, “The Indian Railways Act (1890) Amendment Act, 1896,” see the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1890, Pt. V, p. 125; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 90 and 115.

As being part of the Indian Railways Act, 1890 (IX of 1890), it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1899.

It has been extended, by notification under s. 5 of the Act last mentioned, to British Baluchistan, see Gazette of India, 1896, Pt. II, p. 1004.

<sup>2</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 410.

both inclusive, and sections 53 and 54 of the Land Acquisition Act, 1894,<sup>1</sup> and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation”

Amendment  
of section 59,  
sub-section  
(3), Act IX,  
1890

3. In section 59, sub-section (3), of the said Act, for “sub-section (1)” “sub-section (2)” shall be substituted.

Amendment  
of section 73,  
sub-section  
(1), Act IX,  
1890

4. In section 73, sub-section (1), of the said Act, before the word “camels” the word “mules,” and before the word “sheep” the word “donkeys,” shall be added

Repeal of  
section 81,  
Act IX,  
1890

5. Section 81 of the said Act is repealed.

Amendment  
of section  
114, Act IX,  
1890.

6. In section 114 of the said Act, for the words “the return half” the words “any half,” and for the words “the return journey” the words “the journey,” shall be substituted.

Amendment  
of section  
136, sub-sec-  
tion (1), Act  
IX, 1890.

7. In section 136, sub-section (1), of the said Act, after the word “Court” the words “or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution” shall be added.

#### ACT No. X OF 1896.<sup>2</sup>

[13th March, 1896.]

### An Act to amend the Indian Volunteers Act, 1869.<sup>3</sup>

WHEREAS it is expedient to amend the Indian Volunteers Act, 1869<sup>3</sup> (hereinafter referred to as the said Act); It is hereby enacted as follows:—

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Indian Volunteers Act Amendment Act, 1896.

(2) It shall have the same extent as the Indian Volunteers Act, 1869<sup>3</sup>; and

(3) It shall come into force at once.

Substitution  
of new sec-  
tion for sec-  
tion 4, Act  
XX, 1869.

2. For section 4 of the said Act the following shall be substituted, namely:—

“(1) ‘Magistrate’ means, within the limits of the Presidency-towns, the

<sup>1</sup> Printed, *supra*, p. 100

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 49; for Report of the Select Committee, see *ibid*, 1896, Pt. V, p. 139, and for Proceedings in Council, see *ibid*, 1895, Pt. VI, p. 234, and *ibid*, 1896, Pt. VI, pp. 85, 98 and 122.

As being part of Act XV of 1869, it was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898). Printed, Burma Code, Ed. 1899.

<sup>3</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 112.

Chief Presidency Magistrate, and without those limits a Magistrate of the first class who is a Justice of the Peace :

(2) volunteers shall be deemed to be on ' actual duty '—

(a) when being trained or exercised either alone or with any portion of the regular forces, or

(b) when attached to or otherwise acting as part of or with any regular forces, or

(c) when serving in aid of the civil power ; and

(3) ' civil district ' means a district as defined in the Code<sup>1</sup> of Civil Procedure."

3. For section 8 of the said Act the following shall be substituted, namely :—

Substitution of new section for section 8.

*Application of Army Act.*

" 8. Every member of a corps of volunteers shall, for all military offences of which he shall be guilty whilst on actual duty or actual military service, be subject to the Army Act,<sup>2</sup> so far as the same is applicable to officers and consistent with the provisions of this Act."

Volunteers subjected to Army Act, 1881, so far as it applies to officers.

4. In section 12 of the said Act, for the words " Articles of War " the words " Army Act " shall be substituted.

Amendment of section 12, Act XX of 1869.

5. In section 13 of the said Act, after the words " actual duty " the words " or actual military service " shall be inserted.

Amendment of section 13, Act XX, 1869.

6. Subject to section 9 of this Act, for section 16 of the said Act the following section shall be substituted, namely :—

Substitution of new section for section 16, Act XX, 1869. Local limits of service.

" 16. No member of a corps or battalion of volunteers, other than naval volunteers, shall be bound, without his consent, to serve or proceed on duty beyond the limits of the civil district in which he was enrolled, or where a corps or battalion consists of volunteers enrolled in more civil districts than one, beyond the limits of the territory comprised in those districts : and

No member of a corps of naval volunteers shall be bound, without his consent, to serve or proceed on duty beyond the limits of the port to which the corps belongs, such port being construed to include the city or town after which the corps is named and its suburbs, and the navigable rivers, channels and fairways leading thereto :

Provided that the Local Government or the Commissioner of the Division, or other authority to whom power in this behalf may be delegated by the Local

<sup>1</sup> Printed, General Acts, Vol IV, Ed. 18<sup>th</sup> 8, p. 262.

<sup>2</sup> Printed, Supplement to the Collection of Statutes relating to India, Ed. 1881, p. 22.

(Sec. 7.)

Government, may exempt from service any particular corps or portion of a corps or any individual member or members of a corps by name. Such exemption may be whole or partial in respect either of time or of area, or of both, as the empowered authority may see fit to prescribe."

Addition of new sections after section 26, Act XX, 1869.

7. Subject to section 9 of this Act, after section 26 of the said Act the following sections shall be added, namely :—

*"Supplemental.*

Calling out of volunteer corps for actual military service.

"27. (1) In case of actual or apprehended emergency (the occasion being first declared by the Governor General in Council and notified in the Gazette of India) the Governor General in Council may call out any corps or any portion of any corps of volunteers for actual military service.

(2) All members of any corps or portion of a corps so called out shall be bound, unless incapacitated by infirmity for military service, to assemble as the Governor General in Council may direct, and to proceed according to orders within the limits hereinbefore specified; and, from the time of their corps or portion thereof being so called out, shall be deemed to be on actual military service :

Provided that the Local Government or the Commissioner of the Division or other authority to whom power in this behalf may be delegated by the Local Government, may exempt from service any particular corps or portion of a corps or any individual member or members of a corps by name. Such exemption may be whole or partial in respect either of time or of area, or of both, as the empowered authority may see fit to prescribe.

(3) After a corps or portion of a corps of volunteers has been called out for actual military service, the corps or portion of a corps shall be deemed to be released from actual military service only after a notification in the Gazette of India declaring the occasion to have passed, and not sooner or otherwise :

Provided that the Governor General in Council may at any time discharge any such corps or portion of a corps from actual military service.

(4) Before a corps or portion of a corps of volunteers is released from actual military service, provision shall be made by the Government for the return of the volunteers present therewith to their homes.

Power to make rules as to allowances to volunteers.

"28. (1) The Governor General in Council may make rules<sup>1</sup> for—

(a) the making of payments to, and the provision of transport and supplies for, volunteers called out on actual military service ; and

<sup>1</sup> For rules made under this section to regulate the concessions admissible to volunteers called out for military service, see Gazette of India, 1896, Pt. I, p. 185.



(b) the grant of pay, pensions, gratuities, allowances and rewards to them.

(2) The Governor General in Council may apply such rules or any part of them to any volunteers who may have been called out by any Magistrate or other authority in aid of the civil power:

and may in such case direct, any enactment notwithstanding, by whom the cost of the payments to be made and supplies to be provided under the rules shall be borne.

“29. Where a corps consists of volunteers enrolled in territories subject to more Local Governments than one, the Governor General in Council may, by notification in the Gazette of India, declare what Local Government shall for all or any of the purposes of this Act be deemed to be the Local Government with respect to the corps.”

Appointment of Local Government to act with respect to corps having members enrolled in more provinces than one. Case of volunteers desiring to join in military operations.

8. Whenever military operations are about to be undertaken or are in progress, any member of a volunteer corps may offer himself for actual military service; and if the services of such number of members of any corps as in the opinion of the Governor General in Council is sufficient to enable them to be separately organized are accepted, then those members may be called out either as a corps or as part of a corps, and this Act shall apply to them.

9. Nothing in the new section 16 substituted by section 6 of this Act or in the new section 27 added by section 7 of this Act shall apply to any volunteer who was enrolled before the commencement of this Act, unless he consents in writing to be bound by such new section 16 instead of by the section for which it is substituted, or by such new section 27, as the case may be.

Saving from new sections 16 and 27 in case of volunteers enrolled before commencement of this Act.

### ACT No. XI of 1896.<sup>1</sup>

[13th March, 1896.]

### An Act to amend the Legal Practitioners Act, 1879.<sup>2</sup>

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879<sup>2</sup>; It is hereby enacted as follows:—

1. To section 3 of the said Act the following shall be added, namely:—

Addition to section 3, Act XVIII, 1879.  
“Tout.”

“‘Tout’ means a person who procures the employment in any legal

<sup>1</sup> Short title, “The Legal Practitioners Act, 1896,” see the Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

For Statement of Objects and Reasons, see Gazette of India, 1895, Pt. V, p. 172; for Report of the Select Committee, see *ibid*, 1896, Pt. V, p. 149, and for Proceedings in Council, see *ibid*, 1895, Pt. VI, p. 329, and *ibid*, 1896, Pt. VI, pp. 3, 114 and 123.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 267.

(Secs. 2-3.)

business of any legal practitioner in consideration of any remuneration moving from such practitioner, or proposes to a legal practitioner to procure his employment in any legal business in consideration of such remuneration."

Substitution  
of new  
section for  
section 13,  
Act XVIII,  
1879.

Suspension  
and dismissal  
of Pleaders  
and Mukhtárs  
guilty of  
unprofes-  
sional  
conduct.

2. For section 13 of the said Act the following shall be substituted, namely :—

" 13. The High Court may also, after such inquiry as it thinks fit, suspend or dismiss any Pleader or Mukhtár holding a certificate as aforesaid—

- (a) who takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognised agent of such party within the meaning of the Code of Civil Procedure,<sup>1</sup> XIV of 1 or some servant, relative or friend authorized by the party to give such instructions, or
- (b) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or
- (c) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Pleader or Mukhtár, or
- (d) who, directly or indirectly, procures or attempts to procure the employment of himself as such Pleader or Mukhtár through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or
- (e) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or
- (f) for any other reasonable cause.

Substitution  
of new  
section for  
section 22,  
Act XVIII,  
1879.

Suspension  
and dismissal  
of Revenue  
Agents  
guilty of  
unprofessional  
conduct.

3. For section 22 of the said Act the following shall be substituted, namely :—

" 22. The Chief Controlling Revenue-Authority may also, after such enquiry as it thinks fit, suspend or dismiss any Revenue-Agent holding a certificate as aforesaid—

- (a) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

## (Sec. 4.)

- (b) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Revenue Agent, or
- (c) who, directly or indirectly, procures or attempts to procure the employment of himself as such Revenue Agent through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or
- (d) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or
- (e) for any other reasonable cause.

4. For section 36 of the said Act the following shall be substituted, namely :—

Substitution  
of new  
section for  
section 36,  
Act XVIII,  
1879.

“ 36. (1) Every High Court, District Judge, Sessions Judge, District Magistrate and Presidency Magistrate, every Revenue-officer, not being below the rank of a Collector of a District, and the Chief Judge of every Presidency Small Cause Court (each as regards their or his own Court and the Courts, if any, subordinate thereto) may frame and publish lists of persons proved to their or his satisfaction, by evidence of general repute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

Power to  
frame and  
publish lists  
of touts.

(2) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

(3) A copy of every such list shall be kept hung up in every Court to which the same relates.

(4) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list.

(5) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of section 13, clause (e), and section 22, clause (d).”

ACT No. XXI OF 1896.<sup>1</sup>

[17th December 1896.]

An Act to amend the Indian Paper Currency Act, 1882.<sup>2</sup>

WHEREAS it is expedient to authorise an increase of the amount which may be invested in securities of the Government of India out of the coin and bullion received for currency notes under the law relating to the Government paper currency; It is hereby enacted as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Indian Paper Currency Act Amendment Act, 1896; and

(2) It shall come into force at once.

Amendment  
of section 19,  
Act XX,  
1882.

2. Section 19 of the Indian Paper Currency Act, 1882,<sup>2</sup> as amended by Act No. XV of 1890 (*an Act to amend the Indian Paper Currency Act, 1882*), shall be read as if for the words “eighty millions” the words “one hundred millions” were substituted.

Repeal of  
Act XV,  
1890.

3. Act No. XV of 1890 (*an Act to amend the Indian Paper Currency Act, 1882*) is repealed, but not so as to affect the validity of anything heretofore done in pursuance of the provisions of that enactment.

ACT No. I OF 1897.<sup>3</sup>

[14th January, 1897.]

An Act to amend Act XXXVII of 1850<sup>4</sup> (*for regulating Inquiries into the behaviour of Public Servants*).

WHEREAS it is expedient to amend Act XXXVII of 1850<sup>4</sup> (*for regulating Inquiries into the behaviour of Public Servants*); It is hereby enacted as follows:—

Title of Act  
XXXVII,  
1850.

1. The said Act XXXVII of 1850<sup>4</sup> may be called the Public Servants (Inquiries) Act 1850.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. 259, and for Proceedings in Council, *see* *ibid*, 1896, Pt. VI, p. 251.

As being part of Act XX of 1882, it is in force in Upper Burma (except the Shan States), *see* Burma Laws Act, 1898 (XIII of 1898), First Schedule. Burma Code, Ed. 1899.

<sup>2</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 634.

<sup>3</sup> Short title, “The Public Servants (Inquiries) Act (1850) Amendment Act, 1897.” *See* the Indian Short Titles Act, 1897 (XIV of 1897), *infra*, p. 321. For Statement of Objects and Reasons, *see*, Gazette of India, 1896, Pt. V, p. 239; for Report of the Select Committee, *see* *ibid*, 1897, Pt. V, p. 5, and for Proceedings in Council, *see* *ibid*, 1896, Pt. VI, pp. 232 and 251; *ibid*, 1897, Pt. VI, pp. 2 and 9.

<sup>4</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 74.

As being part of Act XXXVII of 1850, it is in force in Upper Burma except the Shan States, *see* the Burma Laws Act, 1898 XIII of 1898, First Schedule, Burma Code, Ed. 1899.

As part of that Act it came into force in the following Scheduled Districts when it was declared in force there by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), namely (1) the whole of Assam except the district of Sylhet and the North Lushai Hills, *see* Gazette of India, 1897, pt. I, p. 299, (2) the Purnahat Estate in the Singbhum district, *see* *ibid*, 1897, Pt. I, p. 1059, and (3) the Scheduled Districts in Ganjam and Vizagapatam, *see* *ibid*, 1898, Pt. I, p. 870.

2. In the preamble to the said Act, after the word "removable" the words "from their appointments" shall be inserted, and for the words "the East India Company" the word "India" shall be substituted.

Amendment of preamble to Act XXXVII, 1850.  
Amendment of section 2, Act XXXVII, 1850.

3. In section 2 of the said Act, for the words "the East India Company, not removable from his office without the sanction of the same Government," the words "the Government, not removable from his appointment without the sanction of the Government," shall be substituted.

4. For section 23 of the said Act the following section shall be substituted, namely:—

Substitution of new section for section 23, Act XXXVII, 1850.  
Powers of Government under this Act by whom exercisable.

"23. The powers of the Government under this Act may in all cases be exercised by the Governor General in Council, and when the person accused can be removed from his appointment by the Local Government, those powers may also be exercised by the Local Government."

#### ACT No. III OF 1897.<sup>1</sup>

[4th February, 1897.]

### An Act to provide for the better prevention of the spread of Dangerous Epidemic Disease.

WHEREAS it is expedient to provide for the better prevention of the spread of dangerous epidemic disease; It is hereby enacted as follows:—

1. (1) This Act may be called the Epidemic Diseases Act, 1897.

(2) It extends to the whole of British India (inclusive of \* \* British Baluchistan, the Santhál Parganas and the Pargana of Spiti); and

(3) It shall come into force at once

Short title, extent and commencement.

2. (1) When at any time the Governor General in Council is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the Governor General in Council, if he thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take or require or empower any person to take such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as he shall deem necessary to prevent the outbreak of such disease or the spread thereof

Power to take special measures and prescribe regulations as to dangerous epidemic disease.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 21; for Report of the Select Committee, see *ibid.*, p. 23; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 18 and 24.

The Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898).

<sup>2</sup> The words "Upper Burma" were repealed by the Burma Laws Act, 1898 (XIII of 1898), see fifth schedule, printed, Burma Code, Ed. 1899.

and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Governor General in Council may take measures and prescribe regulations for --

(a) the inspection of any ship or vessel leaving,<sup>1</sup> or arriving at, any port in British India and such detention thereof, or of any person intending to sail therein or arriving thereby, as may be necessary ; and

(b) the inspection of persons travelling by railway or otherwise, and the segregation, in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.

(3) The Governor General in Council may, by general or special order, direct that all or any of the powers conferred by this Act may also be exercised by any Local Government with respect to the territories administered by it.<sup>2</sup>

Penalty.

3. Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code.<sup>3</sup>

XLV of 1

Protection  
to persons  
acting under  
Act.

4. No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

#### ACT No. IV OF 1897.<sup>4</sup>

[4th February, 1897.]

### An Act to provide for certain matters relating to Fisheries in British India.

WHEREAS it is expedient to provide for certain matters relating to fisheries in British India; It is hereby enacted as follows :

Title, extent  
and com-  
mencement.

1. (1) This Act may be called the Indian Fisheries Act, 1897.

<sup>1</sup> For special provision as to inspection of passengers sailing for ports in the Red Sea, see s. 30 of the Native Passenger Ships Act, 1887 (X of 1887), printed, General Acts, Vol. V, Ed. 1898, p. 144.

<sup>2</sup> For notification delegating powers under the Act to Local Governments, see Gazette of India, 1897, Pt. I, p. 102.

<sup>3</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>4</sup> For Statement of Objects and Reasons, see Gazette of India, 1893, Pt. V, p. 101 ; for Report of the Select Committee, see *ibid*, 1897, Pt. V, p. 15 ; and for Proceedings in Council, see *ibid*, 1893, Pt. VI, p. 207 ; *ibid*, 1896, p. 250, and *ibid*, 1897, p. 21.

This Act was extended to British Baluchistan, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), printed, General Acts, Vol. II, Ed. 1898, p. 467, see Gazette of India, 1897, Pt. II, p. 792.

(Secs. 2-5.)

(2) It extends to the whole of British India, except Burma;<sup>1</sup> and

(3) It shall come into force at once.

2. Subject to the provisions of sections 8 and 10 of the General Clauses Act, 1887,<sup>2</sup> this Act shall be read as supplemental to any other enactment<sup>3</sup> for the time being in force relating to fisheries in any part of British India except Burma.

Act to be read as supplemental to other Fisheries Laws.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) “fish” includes shell-fish:

(2) “fixed engine” means any net, cage, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way: and

(3) “private water” means water which is the exclusive property of any person or in which any person has for the time being an exclusive right of fishery whether as owner, lessee or in any other capacity.

*Explanation.*—Water shall not cease to be “private water” within the meaning of this definition by reason only that other persons may have by custom a right of fishery therein.

4. (1) If any person uses any dynamite or other explosive substance in any water with intent thereby to catch or destroy any of the fish that may be therein, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

Destruction of fish by explosives in inland waters and on coasts.

(2) In sub-section (1) the word “water” includes the sea within a distance of one marine league of the sea-coast: and an offence committed under that sub-section in such sea may be tried, punished and in all respects dealt with as if it had been committed on the land abutting on such coast.

5. (1) If any person puts any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish, he shall be punishable

Destruction of fish by poisoning of waters.

<sup>1</sup> As to law in force in Lower Burma, see the Burma Fisheries Act, 1875 (VII of 1875), printed, Burma Code, Ed. 1889.

<sup>2</sup> See now ss. 4 and 26 of the General Clauses Act, 1897 (X of 1897), printed, *infra*, p. 316.

<sup>3</sup> For law relating to Fisheries in:—

(1) the Arakan Hills, see the Arakan Hill District Laws Regulation, 1874 (IX of 1874), s. 3, printed, Burma Code, Ed. 1899.

(2) Assam, see the Assam Land and Revenue Regulation, 1886 (I of 1886), ss. 16 and 155, printed, Assam Code, Ed. 1897, p. 233.

(3) Bengal and Assam (Private Fisheries), see the Private Fisheries Protection Act, 1889 (Bengal Act II of 1889), printed, Assam Code, Ed. 1897, p. 709.

(4) Central Provinces, see Central Provinces Land Revenue Act, 1881 (XVIII of 1881), published by the Legislative Department as modified up to 15th November 1898.

(5) Nilgiris District, as to acclimatised fish, see “The Nilgiris Game and Fish Preservation Act, 1879” (Madras Act II of 1879), printed, Madras Code, Ed. 1883, p. 343.

(Secs. 6-7.)

with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(2) The Local Government may, by notification in the official Gazette, suspend the operation of this section in any specified area, and may in like manner modify or cancel any such notification.

Protection of  
fish in select-  
ed waters by  
rules of Local  
Government.

6. (1) The Local Government may make rules for the purposes hereinafter in this section mentioned, and may by a notification in the official Gazette apply all or any of such rules to such waters, not being private waters, as the Local Government may specify in the said notification.

(2) The Local Government may also, by a like notification, apply such rules or any of them to any private water with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein.

(3) Such rules may prohibit or regulate all or any of the following matters, that is to say:—

- (a) the erection and use of fixed engines;
- (b) the construction of weirs; and
- (c) the dimension and kind of the nets to be used and the modes of using them.

(4) Such rules may also prohibit all fishing in any specified water for a period not exceeding two years.

(5) In making any rule under this section the Local Government may—

- (a) direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in; and

(b) provide for —

- (i) the seizure, forfeiture and removal of fixed engines, erected, or used, or nets used, in contravention of the rule, and
- (ii) the forfeiture of any fish taken by means of any such fixed engine or net.

(6) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

Arrest with-  
out war-  
rant for  
offences under  
this Act.

7. (1) Any police-officer, or other person specially empowered by the Local Government in this behalf, either by name or as holding any office, for the time being, may, without an order from a Magistrate and without warrant,



(Secs. 1-3.)

arrest any person committing in his view any offence punishable under section 4 or 5 or under any rule under section 6—

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained :

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

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ACT No. V OF 1897.<sup>1</sup>

[25th February, 1897.]

An Act to repeal certain obsolete enactments and to amend and facilitate the citation of certain other enactments.

WHEREAS it is expedient that certain enactments specified in the first schedule to this Act which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed ;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act ;

And whereas it is also expedient to facilitate the citation of the enactments specified in the third schedule to this Act ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Repealing and Amending Act, 1897 ; Title and  
commence-  
ment.

(2) It shall come into force at once.

2. (1) The enactments specified in the first schedule are hereby repealed to the extent mentioned in the fourth column thereof. Enactments  
in schedules  
repealed  
and amended  
respectively.

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

3. The repeal by this Act of any enactment shall not affect any Act or Savings. Regulation in which such enactment has been applied, incorporated or referred to ;

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 50, and for Proceedings in Council, see *ibid.*, 1897, pp. 41 and 44.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

Citation of  
certain enact-  
ments.

4. Each of the enactments described in the first three columns of the third schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

### THE FIRST SCHEDULE.

A description or citation of a portion of an enactment includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

1	2	3	4
Year.	No.	Short title or subject.	Extent of repeal.
*	*	*   *	*   *   *   * 1
<i>Part IV.—Regulations of the Bengal Code.</i>			
1806	XI	Passage of Troops	In section 2, <i>the words from</i> the Commanding Officer <i>will at the same time to the end.</i>  In section 7, <i>the words</i> and the Magistrates to report to the Nizamat Adalat for the information of the Governor General in Council.
*	*	*   *	*   *   *   * 2

<sup>1</sup> Parts I to III have been omitted, as they affect Acts of the Governor General in Council, Acts of the Lieutenant-Governor of Bengal and Regulations under the Government of India Act, 1870 (33 Vict., c. 3), in force in Assam alone; they are printed *in extenso* in the Assam Code, Ed. 1897, pp. 203 to 206.

<sup>2</sup> The entries relating to the repeal of Bengal Regulations XIX of 1810 and XX of 1817, so far as they apply Assam, are omitted; they are reproduced in the Assam Code, Ed. 1897, p. 206.

(The Second Schedule. The Third Schedule.)

## THE SECOND SCHEDULE.

1	2	3	4
Year	No	Short title or subject	Amendment.
*	*	* * *	* * *
<i>Part IV.—Regulations of the Bengal Code.</i>			
1806	XI	Passage of Troops	In section 4, clause third, <i>for</i> Governor General in Council, <i>in each place in which those words occur. read</i> Local Government.
1812	XI	Removal of Foreign Immigrants.	In section 5, clause second, <i>for</i> to the Nizámat Adálat, who will recommend to the Governor General in Council such abbreviation of the prescribed punishment as they may judge proper, <i>read</i> to the Local Government, and the Local Government shall pass such orders thereon as it may think fit., <i>For</i> Governor General in Council, <i>wherever those words occur, read</i> Local Government.
1823	VII	Loans to covenanted officers.	In section 3, <i>for the words from</i> All Judges <i>to</i> powers of such Collector, <i>read</i> All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners being members of the Indian Civil Service. In section 6, and also in section 8, <i>for</i> Governor General in Council <i>read</i> Local Government. In section 8, <i>for</i> Government, <i>read</i> the Local Government.

## THE THIRD SCHEDULE.

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part I.—Local Acts of the Governor General in Council in force in Assam.</i>			
1850	XXV	For the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII, 1819.	The Forfeited Deposits Act, 1850.
"	XXXIII	For amending the forms necessary for the sale of patni tenures in Bengal.	The Sale of Patni Tenures Act, 1850.

Parts I to III of the second schedule have been omitted, as they affect Acts of the Governor General in Council, Acts of the Lieutenant-Governor of Bengal and Regulations under the Government of India Act, 1870 (33 Vict., c. 8), in force in Assam alone; they are printed *in extenso* in the Assam Code, Ed. 1897, pp. 206 and 207.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year	No.	Subject.	Short title.
<i>Part I.—Local Acts of the Governor General in Council in force in Assam—concld.</i>			
1853	VI	Relating to summary suits for arrears of rent, to sales of patni taluqs and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.	The Rent Recovery Act, 1853.
"	XIX	To amend the law of evidence in the Civil Courts of the East India Company in the Bengal Presidency.	The Recusant Witnesses Act, 1853.
1856	XII	To amend the law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William.	The Civil Courts Amins Act, 1856.
1867	III	To provide for the punishment of public gambling and the keeping of common gaming houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces and British Burma.	The Public Gambling Act, 1867.
1871	XIX	To provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.	The Bengal Sessions Courts Act, 1871.
*	*	* *	* * * *
1886	III	To amend the Northern India Ferries Act, 1878.	The Northern India Ferries Act Amendment Act, 1878.
1892	IV	To amend the Bengal Court of Wards Act, 1879 [Act IX (B.C.) of 1879].	The Court of Wards Act, (Bengal) Amendment Act, 1892.
*	*	* *	* * * *

<sup>1</sup> The entries here omitted affect Acts in force only in Assam; they are reproduced in the Assam Code, Ed. 1897, p. 210.

<sup>2</sup> The entry here omitted relates to the Assam Frontier Tracts Regulation, 1884 (III of 1884), which only affects Assam, see Assam Code, Ed. 1897, p. 210.

## (The Third Schedule.)

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject	Short title.
<i>Part III.—Regulations of the Bengal Code in force in Assam.</i>			
1793	I	For enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March 1793.	The Bengal Permanent Settlement Regulation, 1793.
"	II	For abolishing the Courts of Mál Adálat or Revenue Courts and transferring the trial of the suits which were cognizable in those Courts to the Courts of Dewání Adálat; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.	The Bengal Land-revenue Regulation, 1793.
"	VIII	For re-enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the zamindárs, independent taluqdars and other actual proprietors of land, in Bengal, Behar, and Orissa, passed for those provinces respectively on the 18th September, 1789; the 25th November, 1789; and the 10th February, 1790, and subsequent dates.	The Bengal Decennial Settlement Regulation, 1793.
"	XI	For removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government.	The Bengal Inheritance Regulation, 1793.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject	Short title.
<i>Part III.—Regulations of the Bengal Code in force in Assam—contd.</i>			
1793	XXXVIII	For re-enacting, with modifications, such part of the rule passed on the 27th June, 1787, as prohibits Covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to zamindárs, independent taluqdars or other actual proprietors of land, or dependent taluqdars or farmers of landholding farms immediately of Government, or the under-farmers or raints of the several descriptions of proprietors and farmers of land above mentioned, or their respective sureties.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1793.
1799	V	To limit the interference of the Zila Court of Diwání Adálat in the execution of wills and administration to the estates of persons dying intestate.	The Bengal Wills and Intestacy Regulation, 1799.
1800	X	For preventing the division of landed estates in the Jangal Mahals of the Zila of Midnapore and other Districts.	The Bengal Inheritance Regulation, 1800.
1804	X	For declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.	The Bengal State Offences Regulation, 1804.

## (The Third Schedule.)

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject	Short title.
<i>Part III.—Regulations of the Bengal Code in force in Assam—contd.</i>			
1806	XI	For facilitating the progress of detachments of troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories.	The Bengal Troops Transport and Travellers Assistance Regulation, 1806.
1812	XI	To empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.	The Bengal Foreign Immigrants Regulation, 1812.
1818	III	For the confinement of State Prisoners.	The Bengal State Prisoners Regulation, 1818.
1819	VIII	To declare the validity of certain tenures, and to define the relative rights of zamindars and patni taluqdars; also to establish a process for the sale of such taluqs in satisfaction of the zamindar's demand of rent.	The Bengal Patni Taluqs Regulation, 1819.
1820	I	For providing that all sales of certain taluqs made answerable by sale	The Bengal Patni Taluqs Regulation, 1820.

THE THIRD SCHEDULE—*concl'd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III.—Regulations of the Bengal Code in force in Assam—concl'd.</i>			
1820	— <i>cont'd.</i>	for arrears by the zamindār's rent shall be conducted in the mode provided by Regulation VIII, 1819, for the sales therein described.	
1823	VII	For prohibiting loans by Covenanted Civil Servants from persons subject to their official authority and influence.	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823.
1825	VI	For rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.	The Bengal Troops Transport Regulation, 1825.
"	XI	For declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea.	The Bengal Alluvion and Diluvion Regulation, 1825.
1827	III	For modifying and amending the rules in force relative to the law officers and ministerial native officers of the Courts of Judicature, who may be guilty of corruption or extortion.	The Bengal Corruption and Extortion Regulation, 1827.
"	V	For modifying the rules at present in force for the management of estates under attachments by orders of the Courts of Justice in certain cases.	The Bengal Attached Estates Management Regulation, 1827.
1829	XVII	For declaring the practice of Sati or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.	The Bengal Sati Regulation, 1829.



(Secs. 1-3.)

ACT No. VI OF 1897.<sup>1</sup>

[4th March, 1897.]

An Act to amend the Negotiable Instruments Act, 1881.<sup>2</sup>

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881 ;<sup>3</sup>  
It is hereby enacted as follows :—

1. (1) This Act may be called the Negotiable Instruments Act Amendment Act, 1897 ; and

(2) It shall come into force at once.

2. To section 72 of the said Act the following words shall be prefixed, namely, “ Subject to the provisions of section 84.”

3. For section 84 of the said Act the following section shall be substituted, namely :—

“ 84. (1) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right, at the time when presentment ought to have been made, as between himself and the banker, to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.

(3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge and entitled to recover the amount from him.”

*Illustrations.*

(a) A draws a cheque for Rs. 1,000, and, when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(b) A draws a cheque at Umballa on a bank in Calcutta. The bank fails before the cheque could be presented in ordinary course. A is not discharged, for he has not suffered actual damage through any delay in presenting the cheque.

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 36 ; for Report of the Select Committee, see *ibid.*, 1897, Pt. V, p. 51 ; and for Proceedings in Council, see *ibid.*, 1896, Pt. VI, pp. 79 and 250, and *ibid.*, 1897, pp. 39 and 54.

As being part of the Negotiable Instruments Act, 1881 (XXVI of 1881), the Act is in force in the whole of Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

<sup>2</sup>Printed, General Acts, Vol. III, Ed. 1898, p. 399.

Short title  
and com-  
mencement.

Amendment  
of section 72,  
Act XXVI  
of 1881.  
Substitution  
of new sec-  
tion for sec-  
tion 84, Act  
XXVI of  
1881.  
When cheque  
not duly  
presented  
and drawer  
damaged  
thereby.

ACT No. VII OF 1897.<sup>1</sup>

[4th March, 1897.]

An Act to amend the Indian Emigration Act, 1883.<sup>2</sup>

WHEREAS it is expedient to amend the Indian Emigration Act, 1883; <sup>XXI of 1883.</sup> It is hereby enacted as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Indian Emigration Act Amendment Act, 1897; and

(2) It shall come into force at once.

Amendment  
of section  
102, Act  
XXI, 1883.

2. In section 102 of the Indian Emigration Act, 1883, as amended by Act <sup>XXI of 1883.</sup> No. XVIII of 1890,<sup>3</sup> section 7, for the words "British Colony or possession" wherever they occur, the word "country", and for the words "State, colony or possession", wherever they occur, the words "State or country" shall be substituted.

## THE REFORMATORY SCHOOLS ACT, 1897.

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 65; and for Proceedings in Council, see *ibid.*, Pt. VI, pp. 47 and 63.

<sup>2</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 668.

<sup>3</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 470.

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ACT No. VIII OF 1897.<sup>1</sup>

[11th March, 1897.]

An Act to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders.

WHEREAS it is expedient to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders ; It is hereby enacted as follows :—

*I.—Preliminary.*

Title, commencement and extent.

1. (1) This Act may be called the Reformatory Schools Act, 1897 ; and
- (2) It shall come into force at once.

(3) This section and section 2 shall extend to the whole of British India. The other sections shall extend in the first instance to the whole of British India except the territories for the time being administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Coorg, but either of the said Local Governments may at any time, by notification in the local official Gazette, extend these sections to their territories from such day as may be fixed in any such notification.

Repeal of Act V of 1876.

2. (1) The Reformatory Schools Act, 1876, is hereby repealed.

V of 1876.

(2) But all proceedings taken, orders passed, officers appointed or authorised and rules made under the said Act shall, as far as may be, be deemed to have been respectively passed, appointed or authorised and made under this Act.

(3) Any enactment or document referring to the said Act shall, as far as may be, be construed to refer to this Act, or to the corresponding portion thereof.

Section 399 of Act X of 1882 repealed on date fixed by a notification under section 1, sub-section (3).

3. From the date fixed by any notification issued under section 1, sub-section (3), section 399 of the Code of Criminal Procedure, 1882,<sup>2</sup> shall be repealed in the province to which the notification relates.

X of 1882.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 187 ; for Report of the Select Committee, see *ibid*, 1897, Pt. V, p. 55 ; and for Proceedings in Council, see *ibid*, 1896, Pt. VI, pp. 222 and 251 ; and *ibid*, 1896, Pt. VI, pp. 44 and 68.

The Act has been declared in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (XIII of 1898), printed, Burma Code, Ed. 1899.

It has also been declared in force in the Santhál Parganas by the Santhál Parganas Settlement Regulation (III of 1872) as amended by the Santhál Parganas Laws Regulation, 1886 (III of 1886), printed, Bengal Code, Vol. I, Ed. 1889, p. 597, see Calcutta Gazette, 1897, Pt. I, p. 1116.

<sup>2</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

## (I.—Preliminary. Sec. 4. II.—Reformatory Schools. Secs. 5-7.)

4. In this Act, unless there is anything repugnant in the subject or con- Definitions.  
text,—

(a) “youthful offender” means any boy who has been convicted of any offence punishable with transportation or imprisonment and who, at the time of such conviction, was under the age of fifteen years :

(b) “Inspector General” includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector General : and

(c) “District Magistrate” shall include a Chief Presidency Magistrate.

## II.—Reformatory Schools.

5. With the previous sanction of the Governor General in Council, the Local Government may—

Power to establish and discontinue Reformatory Schools.

(a) establish and maintain Reformatory Schools at such places as it may think fit ;

(b) use as Reformatory Schools schools kept by persons willing to act in conformity with such rules, consistent with this Act, as the Local Government may prescribe in this behalf ;

(c) direct that any school so established or used shall cease to exist as a Reformatory School or to be used as such.

6. Every school so established or used must provide—

Requisites of schools.

(a) sufficient means of separating the inmates at night ;

(b) proper sanitary arrangements, water-supply, food, clothing and bedding for the youthful offenders detained therein ;

(c) the means of giving such youthful offenders industrial training ;

(d) an infirmary or proper place for the reception of such youthful offenders when sick.

7. (1) Every school intended to be established or used as a Reformatory School shall, before being used as such, be inspected by the Inspector General, and if he finds that the requirements of section 6 have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official Gazette, together with an order of the Local Government establishing the school as a Reformatory School or directing that it shall be used as such, and the school shall thereupon be deemed to be a Reformatory School.

Inspection of Reformatory Schools.

(2) Every such school shall, from time to time, and at least once in every year, be visited by the said Inspector General, who shall send to the Local

## (II.—Reformatory Schools. Secs. 8-10.)

Government a report on the condition of the school in such form as the Local Government may prescribe.

Power of Courts to direct youthful offenders to be sent to Reformatory Schools.

8. (1) Whenever any youthful offender is sentenced to transportation or imprisonment, and is, in the judgment of the Court by which he is sentenced, a proper person to be an inmate of a Reformatory School, the Court may, subject to any rules made by the Local Government, direct that, instead of undergoing his sentence, he shall be sent to such a school, and be there detained for a period which shall be not less than three or more than seven years.

(2) The powers so conferred on the Court by this section shall be exercised only by (a) the High Court, (b) a Court of Session, (c) a District Magistrate, and (d) any Magistrate specially empowered by the Local Government in this behalf, and may be exercised by such Courts whether the case comes before them originally or on appeal.

(3) The Local Government may make rules for—

(a) defining what youthful offenders should be sent to Reformatory Schools, having regard to the nature of their offences or other considerations, and

(b) regulating the periods for which youthful offenders may be sent to such schools according to their ages or other considerations.<sup>1</sup>

Procedure where Magistrate is not empowered to pass an order under section 8.

9. (1) When any Magistrate not empowered to pass an order under the last foregoing section is of opinion that a youthful offender convicted by him is a proper person to be an inmate of a Reformatory School, he may, without passing sentence, record such opinion and submit his proceedings and forward the youthful offender to the District Magistrate to whom he is subordinate.

(2) The Magistrate to whom the proceedings are so submitted may make such further inquiry (if any) as he may think fit and pass such sentence and order for the detention in a Reformatory School of the youthful offender, or otherwise, as he might have passed if such youthful offender had been originally tried by him.

Power of Magistrates to direct boys under fifteen

10. The officer in charge of a prison in which a youthful offender is confined, in execution of a sentence of imprisonment, may bring him, if he has not then attained the age of fifteen years, before the District Magistrate

<sup>1</sup> For rules regulating the period for which youthful offenders may be sent to Reformatories in:—

(1) Bengal, *see* Calcutta Gazette, 1899, Pt. I, p. 226.

(2) Bombay, *see* Bombay List of Local Rules and Orders, Ed. 1896, Vol. I, p. 160.

(3) Burma, *see* Burma Gazette, 1897, Pt. I, p. 301.

(4) Central Provinces, *see* Central Provinces List of Local Rules and Orders, Ed. 1896, p. 23.

(5) Madras, *see* Madras List of Local Rules and Orders, Ed. 1898, Vol. I, p. 33.

## (II.—Reformatory Schools. Secs. 11-13.)

within whose jurisdiction such prison is situate; and such Magistrate may, if such youthful offender appears to be a proper person to be an inmate of a Reformatory School, direct that, instead of undergoing the residue of his sentence, he shall be sent to a Reformatory School, and there detained for a period which shall be subject to the same limitations as are prescribed by or under section 8, with reference to the period of detention thereby authorised.

11. (1) Before directing any youthful offender to be sent to a Reformatory School under section 8, section 9 or section 10, the Court or Magistrate shall inquire into the question of his age and, after taking such evidence (if any) as may be deemed necessary, shall record a finding thereon, stating his age as nearly as may be.

sentenced to imprisonment to be sent to Reformatory Schools.

Preliminary inquiry and finding as to age of youthful offender.

(2) A similar inquiry shall be made and finding recorded by every Magistrate not empowered to pass an order under section 8 before submitting his proceedings and forwarding the youthful offender to the District Magistrate as required by section 9, sub-section (1).

12. Every youthful offender directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may, by general or special order, appoint for the reception of youthful offenders so dealt with by such Court or Magistrate :

Government to determine Reformatory School to which such offenders shall be sent.

Provided that, if accommodation in a Reformatory School is not immediately available for such youthful offender, he may be detained in the juvenile ward or such other suitable part of a prison as the Local Government may direct—

(a) until he can be sent to a Reformatory School, or

(b) until the term of his original sentence expires,

whichever event may first happen. Should the term of his original sentence first expire, he shall thereupon be released, but, should he be sent to a Reformatory School, then the period of detention previously undergone shall be treated as detention in a Reformatory School.

13. (1) If at any time after a youthful offender has been sent to a Reformatory School it appears to the Committee of Visitors or Board of Management, as the case may be, that the age of such youthful offender has been understated in the order for detention, and that he will attain the age of eighteen years before the expiration of the period for which he has been ordered to be detained, they shall report the case for the orders of the Local Government.

Persons found to be over eighteen years not to be detained in Reformatory Schools.

(2) No person shall be detained in a Reformatory School after he has been found by the Local Government to have attained the age of eighteen years.

(II.—*Reformatory Schools. Secs. 14-16. III.—Management of Reformatory Schools. Secs. 17-18.*)

Discharge or removal by order of Government.

14. The Local Government may at any time order any youthful offender—  
 (a) to be discharged from a Reformatory School ;  
 (b) to be removed from one Reformatory School to another such school situate within the territories subject to such Government : Provided that the whole period of his detention in a Reformatory School shall not be increased by such removal.

Power to Governor General in Council to direct use of Reformatories in one province for reception of youthful offenders from another  
 Certain orders not subject to appeal or revision.

15. (1) The Governor General in Council may by general or special order direct that any Reformatory School situated in one province shall be available for the reception of youthful offenders directed to be sent to any Reformatory School by any Court or Magistrate in any other province.

(2) Any such order may also provide for the removal of the youthful offender, and the cost of his maintenance, and may give any such further directions as may be necessary.

16. Nothing contained in the Code of Criminal Procedure, 1882,<sup>1</sup> shall be construed to authorise any Court or Magistrate to alter or reverse in appeal or revision any order passed with respect to the age of a youthful offender or the substitution of an order for detention in a Reformatory School for transportation or imprisonment. X of 188

III.—*Management of Reformatory Schools.*

Appointment of Superintendent and Committee of Visitors or Board of Management.

17. (1) For the control and management of every Reformatory School, the Local Government shall appoint either (a) a Superintendent and a Committee of Visitors, or (b) a Board of Management.

(2) Every Committee and every Board so appointed must consist of not less than five persons, of whom two at least shall be Natives of India.

(3) The Local Government may suspend or remove any Superintendent or any Member of a Committee or Board so appointed.

Superintendent may license youthful offenders to employers of labour.

18. (1) Every Superintendent so appointed may, with the sanction of the Committee, by license under his hand, permit any youthful offender sent to a Reformatory School, who has attained the age of fourteen years, to live under the charge of any trustworthy and respectable person named in the license, or any officer of Government or of a Municipality, being an employer of labour and willing to receive and take charge of him, on the condition that the employer shall keep such youthful offender employed at some trade, occupation or calling.

(2) The license shall be in force for three months and no longer, but may,

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.



## (III—Management of Reformatory Schools. Secs. 19-24.)

at any time and from time to time until the expiration of the period for which the youthful offender has been directed to be detained, be renewed for three months at a time.

19. The license shall be cancelled at the desire of the employer named in the license. Cancellation of license.

20. If during the term of the license the employer named therein dies, or ceases from business or to employ labour, or the period for which the youthful offender has been directed to be detained in the Reformatory School expires, the license shall thereupon cease and determine. Determination of license.

21. If it appears to the Superintendent that the employer has ill-treated the youthful offender, or has not adequately provided for his lodging and maintenance, the Superintendent may cancel the license. Cancellation of license in case of ill-treatment.

22. (1) The Superintendent of a Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school, within the meaning of Act No. XIX of 1850 (*concerning the binding of apprentices*).<sup>1</sup> Superintendent to be deemed guardian of youthful offenders.

(2) If it appears to the Superintendent that any youthful offender licensed under section 18 has behaved well during one or more periods of his license, the Superintendent may, with the sanction of the Committee, apprentice him under the provisions of the said Act, and on such apprenticeship the right to detain such youthful offender in a Reformatory School shall cease and the unexpired term (if any) of his sentence shall be cancelled. Power to apprentice youthful offender.

23. (1) Every Committee of Visitors appointed under section 17 for a Reformatory School shall, at least once in every month,— Duties of Committee of Visitors.

(a) visit the school, to hear complaints and see that the requirements of section 6 have been complied with, and that the management of the school is proper in all respects ;

(b) examine the punishment-book ;

(c) bring any special cases to the notice of the Inspector-General ; and

(d) see that no person is illegally detained in the school.

(2) If any member of a Committee of Visitors so appointed fails or neglects, during a period of six consecutive months, to visit the school and assist in the discharge of the duties aforesaid, he shall cease to be a member of such Committee.

24. If, in exercise of the power conferred by section 17, the Local Government appoints a Board of Management for any Reformatory School, such Board shall have the powers and perform the functions of the Superintendent Powers of Board of Management.

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 64.

(III.—*Management of Reformatory Schools.* Secs. 25-26.)

under sections 18 to 22, both inclusive; and the license mentioned in section 18 may be under the hand of their chairman; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

Power to  
appoint  
Trustees or  
other Man-  
agers of a  
school to be  
a Board of  
Management.

25. The Local Government may declare any body of Trustees or Managers of a school, who are willing to act in conformity with the rules referred to in section 5, clause (b), to be a Board of Management under this Act, and thereupon such body or Managers shall have all the powers and perform all the functions of such Board of Management.

Power of  
Board to  
make rules.

26. (1) With the previous sanction of the Local Government, every Board of Management of a Reformatory School may from time to time make rules consistent with this Act—

- (i) to prescribe the articles which are to be deemed to be "prohibited articles"; and
- (ii) to regulate—
  - (a) the conduct of business of the Board;
  - (b) the management of the school;<sup>1</sup>
  - (c) the education and industrial training of youthful offenders;
  - (d) visits to, and communication with, youthful offenders;
  - (e) the terms and conditions under which any articles declared by the Board to be "prohibited articles" may be introduced into or removed out of the school;
  - (f) the manner in which such articles are to be removed when introduced without due authority;
  - (g) the conditions and limitations under which such articles may be supplied outside the school to any youthful offender under order of detention therein;
  - (h) the conditions on which the possession by any such youthful offender of such articles may be sanctioned;
  - (i) the penalties to be imposed for the supply or possession of such articles when supplied or possessed without due authority;
  - (j) the punishment of offences committed by youthful offenders; and

<sup>1</sup> For rules framed by the Government of—

(1) Bengal	for the management of the Reformatory at Alipur,	see Rules, dated 29th June, 1877;
(2) Bombay	ditto	ditto
(3) Burma	ditto	ditto
(4) Madras	ditto	ditto

Yerrowda, see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, p. 151;  
Insein, see Burma Laws List, Ed. 1897, p. 70;  
Chingleput, see Madras List of Local Rules and Orders, Ed. 1889, Vol. I, p. 32.

(IV.—Offences in relation to Reformatory Schools. Secs. 27-29. V.—Miscellaneous. Sec. 30.)

(k) the granting of licenses for the employment of youthful offenders.

(2) In the absence of a Board of Management the Local Government may make rules consistent with this Act to regulate for any Reformatory School the matters mentioned in any clause of sub-section (1), other than clause (ii)(a), and also the mode in which the Committee of Visitors shall conduct their business.

*IV.—Offences in relation to Reformatory Schools.*

27. Whoever, contrary to any rule made under section 26, introduces or removes or attempts by any means whatever to introduce or remove into or from any Reformatory School, or supplies or attempts to supply outside the limits of any Reformatory School to any youthful offender under order of detention therein, any prohibited article,

Penalty for introduction or removal or supply of prohibited articles and communication with youthful offenders.

and every officer or person in charge of a Reformatory School who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any Reformatory School, to be possessed by any youthful offender detained therein, or to be supplied to any such youthful offender outside its limits,

and whoever, contrary to any such rule, communicates or attempts to communicate with any such youthful offender,

and whoever abets any offence made punishable under this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

28. Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such youthful offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding two hundred rupees, or with both.

Penalty for abetting escape of youthful offender.

29. A Police-officer may, without orders from a Magistrate and without a warrant, arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school or from his employer, and take him back to such school or to his employer.

Arrest of escaped youthful offender.

*V.—Miscellaneous.*

69. 30. The provisions of the Prisoners' Testimony Act, 1869,<sup>1</sup> shall be applied,

Application of Act XV

<sup>1</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 103.

of 1869 to youthful offenders detained in Reformatory Schools.

Power to deal in other ways with youthful offenders, including girls.

so far as they can be made applicable, to youthful offenders detained in Reformatory Schools as if they were persons confined in jail within the meaning of that Act.

31. (1) Notwithstanding anything contained in this Act or in any other enactment for the time being in force, any Court may, if it shall think fit, instead of sentencing any youthful offender to transportation or imprisonment or directing him to be detained in a Reformatory School, order him to be—

(a) discharged after due admonition, or

(b) delivered to his parent or to his guardian or nearest adult relative, or such parent, guardian or relative executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months.

(2) For the purposes of this section the term “youthful offender” shall include a girl.

(3) The powers conferred on the Court by this section shall be exercised only by Courts empowered by or under section 8.

(4) When any youthful offender is convicted by a Court not empowered to act under this section and the Court is of opinion that the powers conferred by this section should be exercised in respect of such youthful offender, it may record such opinion and submit the proceedings and forward the youthful offender to the District Magistrate to whom such Court is subordinate.

(5) The District Magistrate to whom the proceedings are so submitted may thereupon make such order or pass such sentence as he might have made or passed if the case had originally been tried by him.

Procedure when youthful offender under detention in a Reformatory School is again convicted and sentenced.

32. When a youthful offender during his period of detention in a Reformatory School is again convicted by a Criminal Court, the sentence of such Court shall commence at once, notwithstanding anything to the contrary in section 397 of the Code of Criminal Procedure, 1882,<sup>1</sup> but the Court shall forthwith report the matter to the Local Government, which shall have power to deal with the matter in any way in which it thinks fit. X of 1882

<sup>1</sup> See now the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

ACT No. IX of 1897.<sup>1</sup>

[11th March, 1897.]

## An Act to amend the law relating to Government and other Provident Funds.

WHEREAS it is expedient to amend the law relating to Government and other Provident Funds; It is hereby enacted as follows:—

1. (1) This Act may be called the Provident Funds Act, 1897.

Title, extent  
and com-  
mencement.

(2) It extends to the whole of British India, including \* \* \* <sup>2</sup> British Baluchistan; and

(2) It shall come into force at once.

2. In this Act—

Definitions.

(1) "Provident Fund" means a fund in which the subscriptions or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions credited in respect of, and any interest accruing on, such subscriptions or deposits under the rules of the Fund:

(2) "Government Provident Fund" means a Provident Fund constituted by the authority of the Government for any class or classes of its employees:

(3) "Railway Provident Fund" means a Provident Fund constituted by the authority of the Government of India, or of any company which administers a railway or tramway in British India, either under a special Act of Parliament or under contract with the Secretary of State in Council or the Government of India, for any class or classes of the employees on, or in connection with, such railway or tramway: and

(4) "compulsory deposit" means a subscription or deposit which is not repayable on the demand, or at the option, of the subscriber or depositor, and includes any contribution which may have been credited in respect of, and any interest or increment which may have accrued on, such subscription or deposit under the rules of the Fund.

3. (1) When a subscriber to, or depositor in, any Government or Railway Provident Fund dies, and the sum standing to his credit in the books of the

Payment  
from Govern-  
ment or Rail-  
way.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 251; for Report of the Select Committee, see *ibid*, 1897, Pt. V, p. 74; and for Proceedings in Council, see *ibid*, Pt. VI, p. 241, and *ibid*, 1897, Pt. VI, pp. 2, 56 and 7.

<sup>2</sup> The words "Upper Burma and" were repealed and the Act at the same time declared to be in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth and First Schedules, respectively, Printed, Burma Code, Ed. 1899.

way Provident Fund on death of subscriber or depositor.

Fund does not exceed two thousand rupees, the officer or person whose duty it is to make payment of such sum may pay it as follows :—

- (a) he may pay it to any person entitled to receive it according to the rules of the Fund or, in the absence of any rule of the Fund to the contrary, to any person nominated in writing by the deceased subscriber or depositor to receive it;
- (b) in any case not hereinbefore provided for, he may pay it to any person appearing to him to be entitled to receive it.

(2) The provisions of sub-section (1) shall apply to any such sum which at the commencement of this Act, stands to the credit of any subscriber or depositor already deceased.

(3) Nothing in this section shall affect the validity of the rules of any Fund in so far as such rules may provide for the disposal of sums exceeding two thousand rupees.

Government and Railway Provident Funds not to be attached.

4. After the commencement of this Act, the compulsory deposits in any Government or Railway Provident Fund shall not be liable to attachment under any decree or order of a Court of Justice in respect of any debt or liability incurred by a subscriber to, or depositor in, such Fund, and neither the Official Assignee, nor a Receiver appointed under Chapter XX of the Code of Civil Procedure,<sup>1</sup> shall be entitled to, or have any claim on, any such compulsory deposit. XIV of 1

Protection for anything done in good faith under this Act. Power to extend Act to other Provident Funds.

5. No suit or other legal proceeding shall lie against any person in respect of anything done or in good faith intended to be done in pursuance of the provisions of this Act.

6. The Governor General in Council may, in his discretion, by notification in the official Gazette, extend the provisions of this Act to any Provident Fund<sup>2</sup> established for the benefit of its employees by any local authority within the meaning of the Local Authorities Loan Act, 1879.<sup>3</sup>

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Saving as to estates of soldiers.

7. Nothing in section 3 shall apply to money belonging to the estate of any European officer, non-commissioned officer or soldier dying in Her Majesty's service in India, or of any European who at the time of his death was a deserter from such service.

<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

<sup>2</sup> The provisions of the Act hav., under this power, been extended to the Provident Fund of the Bombay Port Trust, *see* Gazette of India, 1898, Pt. I, p. 64.

<sup>3</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 259.

## THE GENERAL CLAUSES ACT, 1897.

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## ENACTMENTS REPEALED.

ACT No. X OF 1897.<sup>1</sup>

[11th March, 1897.]

An Act to consolidate and extend the General Clauses Acts,  
1868 and 1887.

WHEREAS it is expedient to consolidate and extend the General Clauses Acts, 1868 and 1887; It is hereby enacted as follows:—

I of 1868  
I of 1887

*Preliminary.*

Short title  
and com-  
mencement.  
Repeal.

1. (1) This Act may be called the General Clauses Act, 1897; and
- (2) It shall come into force at once.
2. The Acts mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

*General Definitions.*

Definitions.

3. In this Act, and in all Acts of the Governor General in Council and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

“Abet.”

- (1) “abet,” with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code:

“Act.”

- (2)<sup>2</sup> “act,” used with reference to an offence or a civil wrong, shall

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<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 38; for Report of the Select Committee, see *ibid*, p. 77; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 35, 40, 56 and 76.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule, printed, Burma Code, Ed. 1899.

<sup>2</sup> Cf. the Indian Penal Code (Act XLV of 1860), printed, General Acts, Vol. I, Ed. 1898, p. 240, and the Madras General Clauses Act, 1891 (Madras Act III of 1891).



## (General Definitions. Sec. 3.)

include a series of acts, and words which refer to acts done extend also to illegal omissions :

- (3)<sup>1</sup> "affidavit" shall include affirmation and declaration in the case of "Affidavit."  
persons by law allowed to affirm or declare instead of swearing :
- (4)<sup>2</sup> "barrister" shall mean a barrister of England or Ireland, or a "Barrister."  
member of the Faculty of Advocates in Scotland :
- (5) "Bengal Act"<sup>3</sup> shall mean an Act made by the Lieutenant-Governor "Bengal  
of Bengal in Council under the Indian Councils Acts, 1861<sup>4</sup> and Act."  
1892 :
- (6) "Bombay Act" shall mean an Act made by the Governor of "Bombay  
Bombay in Council under the Indian Councils Acts, 1861<sup>4</sup> and Act."  
1892 :
- (7)<sup>5</sup> "British India" shall mean all territories and places within Her "British In-  
Majesty's dominions which are for the time being governed by dia."  
Her Majesty through the Governor General of India or through  
any Governor or other officer subordinate to the Governor General  
of India :
- (8)<sup>6</sup> "British possession" shall mean any part of Her Majesty's domin- "British pos-  
ions, exclusive of the United Kingdom, and, where parts of those session."  
dominions are under both a central and a local legislature, all parts  
under the central legislature shall, for the purposes of this defin-  
ition, be deemed to be one British possession :
- (9) "Chapter" shall mean a Chapter of the Act or Regulation in which "Chapter."  
the word occurs :
- (10)<sup>7</sup> "Collector" shall mean, in a Presidency-town, the Collector of "Collector."  
Calcutta, Madras or Bombay, as the case may be, and elsewhere  
the chief officer in charge of the revenue-administration of a  
district :

<sup>1</sup> Cf. the definitions of "Oath" and "Swear" in sub-ss. (56) and (55), respectively, *infra*. As to affidavits in civil proceedings, see Ch. XVI of the Code of Civil Procedure (Act XIV of 1882), printed, General Acts, Vol. IV, Ed. 1898, p. 262; as to criminal proceedings, see Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

<sup>2</sup> Cf. the Indian High Courts Act, 1861 (24 & 25 Vict., c. 104), s. 19, printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 713.

<sup>3</sup> Since the passing of this Act, the Punjab and Burma Legislative Councils have been constituted, and their Acts may by analogy be referred to as "Punjab" and "Burma Acts."

<sup>4</sup> Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 695.

<sup>5</sup> Cf. the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18 (4). For definition of "India" see *infra*, sub-s. (27).

<sup>6</sup> Cf. *ibid.*, s. 18 (2).

<sup>7</sup> Cf. the Bombay General Clauses Act, 1886 (Bom. Act III of 1886), s. 3 (12), and the N.-W. P. and Oudh General Clauses Act, 1887 (N.-W. P. and Oudh Act I of 1887), s. 2 (12), printed, Bombay Code, Ed. 1896, Vol. II, p. 91, and N.-W. P. and Oudh Code, Ed. 1892, p. 723, respectively.

## (General Definitions. Sec. 3.)

- "Colony." (11) <sup>1</sup> "Colony" shall mean any part of Her Majesty's dominions, exclusive of the British Islands and of British India, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony :
- "Commencement." (12) "commencement," <sup>2</sup> used with reference to an Act or Regulation, shall mean the day on which the Act or Regulation comes into force :
- "Commissioner." (13) <sup>3</sup> "Commissioner" shall mean the chief officer in charge of the revenue-administration of a division :
- "Consular officer." (14) <sup>4</sup> "consular officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul or consular agent :
- "District Judge." (15) <sup>5</sup> "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction :
- "Document." (16) <sup>6</sup> "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter :
- "Enactment." (17) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal, Madras or Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid :
- "Father." (18) "father," in the case of any one whose personal law permits adoption, shall include an adoptive father :
- "Financial year" (19) <sup>7</sup> "financial year" shall mean the year commencing on the first day of April :
- "Good faith." (20) <sup>8</sup> a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not :

<sup>1</sup> Cf. the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18 (3).

<sup>2</sup> For rules determining when any given Act is to come into force, see s. 5, *infra*.

<sup>3</sup> Cf. the N.-W. P. and Oudh General Clauses Act, 1887 (N.-W. P. and Oudh Act I of 1887), printed, N.-W. P. and Oudh Code, Ed. 1892, p. 723

<sup>4</sup> Cf. the Consular Salaries and Fees Act, 1891 (54 & 55 Vict., c. 36), s. 3.

<sup>5</sup> As to definition of "High Court", see sub-s. (24), *infra*.

<sup>6</sup> Cf. the Indian Evidence Act, 1872 (1 of 1872), printed, General Acts, Vol. II, Ed. 1898, p. 223. As to definition of "written", see sub-s. (53), *infra*.

<sup>7</sup> Cf. the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 22.

<sup>8</sup> Cf. the Bills of Exchange Act, 1832 (45 & 46 Vict., c. 61), s. 90, and the Sale of Goods Act, 1893 (56 & 57 Vict., c. 71), s. 62.

As to discussion in Council regarding definition of "good faith," see Gazette of India, 1897, Pt. VI, pp. 56 to 62 and 70 to 79.

## (General Definitions. Sec. 3.)

- (21) <sup>1</sup> "Government" or "the Government" shall include the Local Government as well as the Government of India: "Government."
- (22) "Government of India" shall mean the Governor General in Council or, during the absence of the Governor General from his Council, the President in Council, or the Governor General alone as regards the powers which may be lawfully exercised by them or him respectively: "Government of India."
- (23) <sup>2</sup> "Her Majesty" or "the Queen" shall include Her successors: "Her Majesty" or "the Queen."
- (24) "High Court," used with reference to civil proceedings, shall mean the highest Civil Court of appeal in the part of British India in which the Act or Regulation containing the expression operates: "High Court."
- (25) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth: <sup>3</sup> "Immoveable property."
- (26) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code: <sup>4</sup> "Imprisonment."
- (27) <sup>5</sup> "India" shall mean British India, together with any territories of any Native Prince or Chief under the suzerainty of Her Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India: "India."
- (28) <sup>6</sup> "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund: "Local authority."
- (29) <sup>7</sup> "Local Government" shall mean the person authorized by law to administer executive government in the part of British India in "Local Government."

<sup>1</sup> Cf. the Code of Civil Procedure (Act XIV of 1882), s. 2, printed, General Acts, Vol. IV, Ed. 1898, p. 262. As to definition of Local Government, *see* sub-s. (29), *infra*.

<sup>2</sup> Cf. the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 30, as to references to the reigning Sovereign.

As to Her Majesty's title as Empress of India, *see* the Royal Titles Act, 1876 (39 Vict., c. 10).

<sup>3</sup> As to growing crops and timber so far as they are affected by the Indian Registration Act, 1877 (III of 1877), *see* s. 3 of that Act, printed, General Acts, Vol. III, Ed. 1898, p. 41.

<sup>4</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>5</sup> Cf. the Interpretation Act, 1889 (52 & 53 Vict., c. 63), s. 18 (5).

<sup>6</sup> Cf. the Local Authorities Loan Act, 1879 (XI of 1879), printed, General Acts, Vol. III, Ed. 1898, p. 25.

<sup>7</sup> There are at present eleven Local Governments in British India, namely:—the Governors of Madras and Bombay in Council, the Lieutenant-Governors of Bengal, the N.-W. P. and Oudh, the Punjab and Burma; and the Chief Commissioners of the Central Provinces, Assam, Ajmere-Merwara, Coorg and British Baluchistan. The Commissioner in Sindh exercises by delegation certain powers of a Local Government, *see* Act V of 1868 (Commissioner in Sindh), printed, Bombay Code, Vol. I, Ed. 1894, p. 125.

## (General Definitions. Sec 3.)

which the Act or Regulation containing the expression operates, and shall include a Chief Commissioner :

- "Madras Act." (30) "Madras Act" shall mean an Act made by the Governor of Fort St. George in Council under the Indian Councils Acts, 1861<sup>1</sup> and 1892: 24 & 25 Vic c. 67; 55 & Vict., c. 11.
- "Magistrate." (31) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force :
- "Master" (of a ship). (32)<sup>3</sup> "master," used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship :
- "Month." (33) "month" shall mean a month reckoned according to the British calendar :
- "Moveable property." (34) "moveable property"<sup>4</sup> shall mean property of every description, except immoveable property :
- "North-Western Provinces and Oudh Act." (35) "North-Western Provinces and Oudh Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh in Council under the Indian Councils Acts, 1861<sup>1</sup> and 1892: 24 & 25 Vic c. 67; 55 & Vict., c. 11.
- "Oath." (36) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing :
- "Offence." (37)<sup>5</sup> "offence" shall mean any act or omission made punishable by any law for the time being in force :
- "Part." (38) "Part" shall mean a Part of the Act or Regulation in which the word occurs :
- "Person." (39) "person" shall include any company or association or body of individuals, whether incorporated or not :
- "Political Agent." (40)<sup>6</sup> "Political Agent" shall include—  
 (a) the principal officer representing the Government in any territory or place beyond the limits of British India, and  
 (b) any officer of the Government of India or of any Local Government appointed by the Government of India or the Local Gov

<sup>1</sup> Printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 695.

<sup>2</sup> The Code now in force is Act V of 1898. It is printed, *infra*, p. 380.

<sup>3</sup> See s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

<sup>4</sup> For a comprehensive definition of the word "property," see s. 168 of the Bankruptcy Act, 1883 (46 & 47 Vict., c. 52).

<sup>5</sup> See a similar definition in s. 4 (c) of the Code of Criminal Procedure, 1898 (Act V of 1898).

<sup>6</sup> See s. 3 of the Foreign Jurisdiction and Extradition Act, 1879 (XXI of 1879), printed, General Acts, Vol. III, Ed. 1898, p. 288.

## (General Definitions. Sec. 3.)

ernment to exercise all or any of the powers of a Political Agent for any place not forming part of British India under the law for the time being in force relating to foreign jurisdiction and extradition :

- (41) <sup>1</sup> "Presidency-town" shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William, Madras or Bombay, as the case may be : "Presidency-town."
- (42) <sup>2</sup> "Privy Council" shall mean the Lords and others for the time being of Her Majesty's Most Honourable Privy Council : "Privy Council."
- (43) <sup>3</sup> "Province" shall mean the territories for the time being administered by any Local Government : "Province."
860. (44) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code <sup>4</sup>: "Public nuisance."
- (45) <sup>5</sup> "registered," used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents : "Registered."
- c. 3. (46) "Regulation" shall mean a Regulation made under the Government of India Act, 1870 <sup>6</sup>: "Regulation."
- (47) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment <sup>7</sup>: "Rule."
- (48) "schedule" shall mean a schedule to the Act or Regulation in which the word occurs : "Schedule."
374. (49) "Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled Districts Act, 1874 <sup>8</sup>: "Scheduled District."
- (50) "section" shall mean a section of the Act or Regulation in which the word occurs : "Section."
- (51) <sup>9</sup> "ship" shall include every description of vessel used in navigation not exclusively propelled by oars : "Ship."

<sup>1</sup> See s. 4 (h) of the repealed Code of Criminal Procedure, 1882 (Act X of 1882), and cf. s. 3 (25) of the Madras General Clauses Act, 1891 (Mad. Act I of 1891).

<sup>2</sup> Cf. s. 12 (5) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

<sup>3</sup> Cf. s. 4 (g) of the repealed Code of Criminal Procedure, 1882 (Act X of 1882).

<sup>4</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

As to procedure in the case of public nuisances, see Code of Criminal Procedure, 1898 (Act V of 1898), Ch. X, printed, *infra*, p. 380.

<sup>5</sup> Cf. the Madras General Clauses Act, 1891 (Mad. Act I of 1891), s. 3 (11). As to law now in force, see the Indian Registration Act, 1877 (III of 1877), printed, General Acts, Vol. III, Ed. 1898, p. 41.

<sup>6</sup> Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 879.

<sup>7</sup> The provisions of ss. 20 to 24 *infra* apply to rules defined in this sub-section.

<sup>8</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 467.

<sup>9</sup> Cf. s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60).

## (General Definitions. Secs. 3-4.)

" Sign. "	(52) <sup>1</sup> "sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions :
" Son. "	(53) "son," in the case of any one whose personal law permits adoption, shall include an adopted son :
"Sub-section."	(54) "sub-section" shall mean a sub-section of the section in which the word occurs :
" Swear."	(55) <sup>2</sup> "swear" with its grammatical variations and cognate expressions shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing :
" Vessel. "	(56) <sup>3</sup> "vessel" shall include any ship or boat or any other description of vessel used in navigation :
" Will. "	(57) <sup>4</sup> "will" shall include a codicil and every writing making a voluntary posthumous disposition of property :
" Writing. "	(58) <sup>5</sup> expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form : and
" Year. "	(59) <sup>6</sup> "year" shall mean a year reckoned according to the British calendar.

Application  
of foregoing  
definitions to  
previous  
enactments.

4. (1) The definitions in section 3 of the following words and expressions, that is to say, "affidavit," "barrister," "British India," "District Judge," "father," "Government of India," "Her Majesty" or "the Queen," "High Court," "immoveable property," "imprisonment," "Local Government," "Magistrate," "month," "moveable property," "oath," "person," "section," "son," "swear," "will" and "year" apply also, unless there is anything repugnant in the subject or context, to all Acts of the Governor General in Council made after the third day of January, 1868, and to all regulations made on or after the fourteenth day of January, 1887.

(2) The definitions in the said section of the following words and expressions,

<sup>1</sup> See also definition of "Writing" in sub-s. 58, *infra*.

<sup>2</sup> See also definitions of "affidavit" and "oath" *supra*, sub-s. (3) & (36), respectively, and as to oaths, see the Indian Oaths Act, 1873 (X of 1873), printed, General Acts, Vol. II, Ed. 1898, p. 411.

<sup>3</sup> Cf. s. 742 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60). This definition supplements the definition of ship in sub-s. (51), *supra* : See also definition of vessel in s. 48 of the Indian Penal Code, 1860 (Act XLV of 1860), printed, General Acts, Ed. 1898, Vol. I, p. 240.

<sup>4</sup> See the definition of will in s. 3 of the Indian Succession Act, 1865 (X of 1865), printed, General Acts, Vol. I, Ed. 1898, p. 468.

<sup>5</sup> Cf. s. 20 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

<sup>6</sup> As to "financial year" see sub-s. (19), *supra*.

*(General Rules of Construction. Secs. 5-6.)*

that is to say, "abet," "Chapter," "commencement," "financial year," "local authority," "master," "offence," "Part," "public nuisance," "registered," "schedule," "ship," "sign," "sub-section" and "writing," apply also, unless there is anything repugnant in the subject or context, to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887.

*General Rules of Construction.*

5. (1) Where any Act of the Governor General in Council is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it receives the assent of the Governor General. Coming into operation of enactments.

7. (2) Where any Act of the Governor General in Council is reserved under the Indian Councils Act, 1861,<sup>1</sup> section 20, for the signification of Her Majesty's pleasure thereon, then, if no later date is expressed, it shall come into operation, if assented to by Her Majesty, on the day on which the assent of Her Majesty is duly proclaimed.

<sup>2</sup> (3) Unless the contrary is expressed, an Act of the Governor General in Council or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

6. <sup>3</sup> Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not— Effect of repeal.

(a) revive anything not in force or existing at the time at which the repeal takes effect ; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder ; or

(c) effect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed ; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed ; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted,

<sup>1</sup> Printed, Collection of Statutes relating to India. Vol. II, Ed. 1881, p. 695.

<sup>2</sup> *Of.* s. 36 (2) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

As to power to make rules between the passing and commencement of an Act which does not come into force at once, *see* s. 22, *infra*.

<sup>3</sup> *Of.* s. 38 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

*(General Rules of Construction. Secs. 7-10.)*

continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

Revival of  
repealed  
enactments.

7.<sup>1</sup> (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

Construction  
of references  
to repealed  
enactments.

8.<sup>2</sup> Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Commence-  
ment and  
termination  
of time..

9. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to".

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

Computation  
of time.

10.<sup>3</sup> (1) Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open :

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877,<sup>4</sup> applies.

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(2) This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887.

<sup>1</sup> Cf. s. 11 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

<sup>2</sup> Cf. s. 38 (1) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63); see a similar provision in s. 3 of the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

<sup>3</sup> See the Madras General Clauses Act, 1891 (Mad. Act I of 1891), s. 11.

<sup>4</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 75.



(General Rules of Construction. Secs. 11-13. Powers and Functionaries.  
Secs. 14-16.)

11.<sup>1</sup> In the measurement of any distance, for the purposes of any Act of the Governor General in Council or Regulation made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane. Measurement of distances.

12. Where, by any enactment <sup>2</sup> now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandize, then a like duty is leviable according to the same rate on any greater or less quantity. Duty to be taken *pro rata* in enactments.

13. In all Acts of the Governor General in Council and Regulations, unless there is anything repugnant in the subject or context,— Gender and number.

(1) words importing the masculine gender shall be taken to include females; and

(2) words in the singular shall include the plural, and *vice versa*.

*Powers and Functionaries.*

14. (1) Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any power is conferred on the Government, then that power may be exercised from time to time as occasion requires. Powers conferred on the Government to be exercisable from time to time.

(2) This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887.

15. Where, by any Act of the Governor General in Council or Regulation, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.<sup>3</sup> Power to appoint to include power to appoint *ex officio*.

16. Where by any Act of the Governor General in Council or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.<sup>4</sup> Power to appoint to include power to suspend or dismiss.

<sup>1</sup> Cf. s. 34 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

<sup>2</sup> As to definition of "enactment" see s. 3, sub-s. (17), *supra*.

<sup>3</sup> See similar provision in s. 39 of the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

<sup>4</sup> See as to this provision the Statement of Objects and Reasons, quoted *supra*, p. 316.

*(Powers and Functionaries. Secs. 17-19. Provisions as to Orders, Rules, etc., made under Enactments. Secs. 20-21.)*

Substitution  
of function-  
aries.

17. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

Successors.

18. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

Official chiefs  
and subordin-  
ates.

19. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

*Provisions as to Orders, Rules, etc., made under Enactments.*

Construction  
of orders,  
etc., issued  
under enact-  
ments.

20.<sup>1</sup> Where, by any Act of the Governor General in Council or Regulation, a power to issue any order, scheme, rule, form or bye-law is conferred, then expressions used in the order, scheme, rule, form or bye-law, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act or Regulation conferring the power.

Power to  
make to

21.<sup>2</sup> Where, by any Act of the Governor General in Council or Regulation,

<sup>1</sup> Cf. s. 31 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), and s. 10 of the Madras General Clauses Act, 1891 (Mad. Act I of 1891).

<sup>2</sup> Cf. s. 32 (3) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

(Provisions as to Orders, Rules, etc., made under Enactments. Secs. 22-23.)

a power to make orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any orders, rules or bye-laws so made.

include power to add to, amend, vary or rescind, orders, rules or bye-laws.

22.<sup>1</sup> Where, by any Act of the Governor General in Council or Regulation which is not to come into force immediately on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or Regulation, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act or Regulation, then that power may be exercised at any time after the passing of the Act or Regulation; but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation.

Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.

23. Where, by any Act of the Governor General in Council or Regulation, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely :—

Provisions applicable to making of rules or bye-laws after previous publication.

- (1) the authority having power to make the rules or bye-laws shall before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby ;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Governor General in Council or the Local Government prescribes ;
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;
- (4) the authority having power to make the rules or bye-laws, and where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified ;
- (5) the publication in the Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws

<sup>1</sup> Cf. s. 37 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

(Provisions as to Orders, Rules, etc., made under Enactments. Sec. 24.  
Miscellaneous. Secs. 25-28.)

after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

Continuation  
of orders,  
etc., issued  
under enact-  
ments repeal-  
ed and re-  
enacted.

24.<sup>1</sup> Where any Act of the Governor General in Council or Regulation is after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any order, scheme, rule, form or bye-law, issued under the repealed Act or Regulation, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been issued under the provisions so re-enacted, unless and until it is superseded by any order, scheme, rule, form or bye-law issued under the provisions so re-enacted.

*Miscellaneous.*

Recovery of  
fines.

25. Sections 63 to 70 of the Indian Penal Code<sup>2</sup> and the provisions of the Code of Criminal Procedure<sup>3</sup> for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule or bye-law, unless the Act, Regulation, rule or bye-law contains an express provision to the contrary.

Provision as  
to offences  
punishable  
under two or  
more enact-  
ments.

26. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.<sup>4</sup>

Meaning of  
service by  
post.

27.<sup>5</sup> Where any Act of the Governor General in Council or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of  
enactments.

28.<sup>6</sup> (1) In any Act of the Governor General in Council or Regulation,

<sup>1</sup> Cf. s. 18 of the Madras General Clauses Act, 1891 (Mad. Act I of 1891). Similar provisions occur frequently in Indian Acts, *see, e. g.*, s. 2 of the Foreign Jurisdiction and Extradition Act, 1879 (XXI of 1879), printed, General Acts, Vol. III, Ed. 1898, p. 288.

<sup>2</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>3</sup> *See now* s. 386 *et seq.* of the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.

As to definition of "offence" *see supra*, sub-s. (37).

*Cf.* s. 26 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

*Cf.* s. 35 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63). Short titles have been conferred on the unrepealed General Acts of the Governor General in Council which had previously no short titles, *see* The Indian Short Titles Act, 1897 (XIV of 1897), printed, *infra*, p. 331.

(Miscellaneous. Sec. 29. The Schedule.—Enactments repealed.)

and in any rule, bye-law, instrument or document made under, or with reference, to any such Act or Regulation, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act and in any Act of the Governor General in Council or Regulation made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

29.<sup>1</sup> The provisions of this Act respecting the construction of Acts, Regulations, rules or bye-laws made after the commencement of this Act shall not affect the construction of any Act, Regulation, rule or bye-law made before the commencement of this Act, although the Act, Regulation, rule or bye-law is continued or amended by an Act, Regulation, rule or bye-law made after the commencement of this Act.

Saving for previous enactments, rules and bye-laws.

## THE SCHEDULE.

### ENACTMENTS REPEALED.

(See section 2)

Year.	No.	Title or subject.	Extent of repeal.
1868	I	The General Clauses Act, 1868.	The whole.
1872	I	The Indian Evidence Act, 1872	So much as relates to Act I of 1868.
1887	I	The General Clauses Act, 1887	The whole.
1891	XII	The Repealing and Amending Act, 1891	So much as relates to Act I of 1868.

<sup>1</sup> Cf. s. 40 of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

ACT No. XII OF 1897.<sup>1</sup>

[26th March, 1897.]

An Act to enable local authorities to borrow money for temporary emergencies.

WHEREAS it is expedient to enable local authorities to borrow money for temporary emergencies ; It is hereby enacted as follows :—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Local Authorities (Emergency) Loans Act, 1897.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

Power to  
local author-  
ities to bor-  
row in cases  
of famine or  
epidemic  
disease.

2. (1) Notwithstanding anything contained in the Local Authorities Loan Act, 1879,<sup>2</sup> or any other law for the time being in force, a local authority as defined in that Act may, with the previous sanction of the Governor General in Council, borrow money on the security of its funds for any of the following purposes, namely :—

(a) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity ;

(b) the prevention of the outbreak or spread of any dangerous epidemic disease ; and

(c) any measures which may be connected with, or ancillary to, any of the purposes aforesaid.

(2) Nothing in this section shall be deemed to authorize any local authority to borrow or spend money for any purpose for which under the law for the time being in force it is not authorized to apply its funds.

Power to  
Governor  
General in  
Council to  
impose con-  
ditions.

3. (1) Every loan under the last foregoing section shall be made subject to such terms and conditions as the Governor General in Council may think fit to impose.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the Governor General in Council may, by general or special order, prescribe—

(a) the terms on which the Governor General in Council or the Local Government may lend money under this Act ;

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 67 ; for Report of the Select Committee, *see* *ibid*, p. 93 ; and for Proceedings in Council, *see* *ibid*, Pt. VI, pp. 47, 80, 112 and 198.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), Burma Code, Ed. 1899.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 259.

- (b) the manner of recording and enforcing the conditions on which such loans are to be made ;
- (c) the inspection of any works carried out or expenditure incurred by means of such loans ;
- (d) the instalments by which such loans are to be repaid, the interest to be charged thereon and the manner and time of repaying such loans and of paying the interest thereon ; and
- (e) the accounts to be kept in respect of such loans.

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4. The provisions of sections 6 and 7 of the Local Authorities Loan Act, 1879, shall apply to the borrowing of money under this Act.

5. The provisions of this Act shall apply to any loan made after the first day of January, 1897, and before the commencement of this Act by, or with the sanction of, the Governor General in Council to any local authority for any of the purposes hereinbefore mentioned, and every such loan shall be deemed to have been made under this Act.

ACT No. XIV of 1897.<sup>1</sup>

[22nd July, 1897.]

### An Act to facilitate the citation of certain Acts.

WHEREAS it is expedient to facilitate the citation of certain Acts ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Short Titles Act, 1897 ; and
- (2) It shall come into force at once.

Title and commencement.

2. Each of the Acts described in the first three columns of the schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Citation of Acts described in schedule.

### THE SCHEDULE.<sup>2</sup>

1	2	3	4
Year.	No.	Subject.	Short Title.
1834	II	Authorising Secretaries to Government to exercise powers of Chief Secretaries.	The Secretaries to Government Act, 1834.

<sup>1</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 110 ; and for Proceedings in Council, *see ibid.*, 1897, pp. 206 and 217.

This Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), Burma Code, Ed. 1899.

<sup>2</sup> Acts to which short titles have been given by this Schedule are un repealed General Acts of the Governor General in Council, and, where they have not since been repealed, they will be found reprinted in one of the six volumes of the revised edition of those Acts, published by the Legislative Department, according to the year to which they belong.

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title
1837	IV	Empowering all subjects of Her Majesty to hold land.	The Property in Land Act, 1837.
1838	XXV	Wills . . . . .	The Wills Act, 1838.
1839	XXIX	Amending the Law relating to Dower .	The Dower Act, 1839.
"	XXX	Amending the Law of Inheritance . .	The Inheritance Act, 1839.
"	XXXII	Concerning the allowance of Interest in certain cases.	The Interest Act, 1839.
1841	X	Prescribing the Rules to be observed in order that ships or vessels belonging to ports within the territories under the Government of the East India Company, or belonging to Native Princes or States or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor General of India in Council made in pursuance of the Statute 3rd and 4th Victoria, ch. 56.	The Indian Registration of Ships Act, 1841.
"	XIX	Providing for the protection of moveable and immoveable property against wrongful possession in cases of succession.	The Succession (Property Protection) Act, 1841.
"	XXIV	Providing for the greater uniformity of the Law administered by Her Majesty's Supreme Courts with that administered in England in regard to the undisposed residue of the effects of Testators, Illusory Appointments, the transfer of Estates by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons and other like matters.	The Illusory Appointments and Infants' Property Act, 1841.
"	XXVII	Providing for the appropriation of the unclaimed Dividends on Insolvent Estates.	The Insolvent Estates (Unclaimed Dividends) Act, 1841.
1843	V	Declaring and amending the Law regarding the condition of Slavery within the territories of the East India Company.	The Indian Slavery Act, 1843.



(Schedule.)

THE SCHEDULE—*contd*

1	2	3	4
Year.	No.	Subject	Short Title.
1846	I	Amending the Law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The Legal Practitioners Act, 1846.
1847	XX	Providing for the encouragement of learning in the territories subject to the Government of the East India Company by defining and providing for the enforcement of the right called Copyright therein.	The Indian Copyright Act, 1847.
1848	XV	Forbidding trading by the Officers of the Supreme Courts.	The Supreme Courts' Officers Trading Act, 1848.
1850	V	Providing for freedom of the Coasting Trade of India.	The Indian Coasting Trade Act, 1850.
"	XI	Amending Act X, 1841 . . . . .	The Indian Registration of Ships Act (1841) Amendment Act, 1850.
"	XII	Providing for avoiding loss by the default of Public Accountants.	The Public Accountants' Defaults Act, 1850.
"	XVIII	Providing for the protection of Judicial Officers.	The Judicial Officers' Protection Act, 1850.
"	XIX	Concerning the binding of Apprentices .	The Apprentices Act, 1850.
"	XXI	Extending the principle of section 9, Regulation VIII, 1832, of the Bengal Code throughout the territories subject to the Government of the East India Company.	The Caste Disabilities Removal Act, 1850.
"	XXXIV	Providing for the better Custody of State Prisoners.	The State Prisoners Act, 1850.
1851	VIII	Enabling Government to levy Tolls on Public Roads and Bridges.	The Indian Tolls Act, 1851.
1852	VIII	Providing for the remuneration of the Sheriffs of Calcutta, Madras and Bombay for the execution of Mufassal Process under the Code of Criminal Procedure, 1882, and the Code of Civil Procedure.	The Sheriffs' Fees Act, 1852.
"	XXX	Providing for the Naturalization of Aliens	The Indian Naturalization Act, 1852.

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
1853	II	Removing doubts as to the liability of all subjects of Her Majesty to the same jurisdiction as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers.	The Landholders' Public Charges and Duties Act, 1853.
"	XX	Amending the Law relating to Pleadings in the Courts of the East India Company.	The Legal Practitioners Act, 1853.
1854	XXXI	Simplifying the modes of conveying land in cases to which the English Law is applicable.	The Conveyance of Land Act, 1854.
1855	XI	Relating to mesne Profits and to improvements made by holders under defective titles in cases to which the English Law is applicable.	The Mesne Profits and Improvements Act, 1855.
"	XII	Enabling Executors, Administrators or Representatives to sue and be sued for certain wrongs.	The Legal Representatives' Suits Act, 1855.
"	XIII	Providing compensation to families for loss occasioned by the death of a person caused by actionable wrong.	The Indian Fatal Accidents Act, 1855.
"	XXIII	Amending the Law relating to the administration of the Estates of deceased persons charged with money by way of mortgage.	The Mortgaged Estates' Administration Act, 1855.
"	XXIV	Substituting penal servitude for the punishment of transportation in respect of European and American Convicts.	The Penal Servitude Act, 1855.
"	XXVIII	Repealing the Usury Laws . . .	The Usury Laws Repeal Act, 1855.
1856	IX	Amending the law relating to Bills of Lading.	The Indian Bills of Lading Act, 1856.
"	XI	Providing for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty in India.	The European Deserters Act, 1856.
"	XV	Removing all legal obstacles to the marriage of Hindu Widows.	The Hindu Widows' Remarriage Act, 1856.
1857	II	Providing for the establishment and incorporation of a University at Calcutta.	The Calcutta University Act, 1857.

(Schedule.)

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
1857	XI	Providing for the prevention, trial and punishment of offences against the State.	The State Offences Act, 1857.
"	XXII	Providing for the establishment and incorporation of a University at Bombay.	The Bombay University Act, 1857.
"	XXV	Providing for the adjudication and recovery of forfeitures of property in certain cases.	The Forfeiture Act, 1857.
"	XXVII	Providing for the establishment and incorporation of a University at Madras.	The Madras University Act, 1857.
1858	III	Amending the Law relating to the arrest and detention of State Prisoners.	The State Prisoners Act, 1858.
"	XXXIV	Regulating proceedings in Lunacy in the Courts of Judicature established by Royal Charter.	The Lunacy (Supreme Courts) Act, 1858.
"	XXXV	Making better provision for the care of the Estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature.	The Lunacy (District Courts) Act, 1858.
"	XXXVI	Lunatic Asylums . . . . .	The Indian Lunatic Asylums Act, 1858.
1859	I	Amending the Law relating to Merchant Seamen.	The Indian Merchant Shipping Act, 1859.
"	IX	Providing for the adjudication of claims to property seized or forfeited.	The Forfeiture Act, 1859.
"	XIII	Providing for the punishment of breaches of Contract by Artificers, Workmen and Labourers in certain cases.	The Workman's Breach of Contract Act, 1859.
1860	IX	Making provision for the speedy determination of certain disputes between workmen engaged in railway and other public works and their employers.	The Employers and Workmen (Disputes) Act, 1860.
"	XXI	Providing for the Registration of Literary, Scientific and Charitable Societies.	The Societies' Registration Act, 1860.
"	XXXIV	Indemnifying Officers of Government and other persons in respect of fines and contributions levied, and acts done, by them during the late disturbances.	The Government Officers' Indemnity Act, 1860.

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No	Subject.	Short Title.
1860	XLVII	Giving to the Universities 'of Calcutta, Madras and Bombay the power of conferring degrees in addition to those mentioned in Acts II, XXII and XXVII of 1857.	The Indian Universities (Degrees) Act, 1860.
1861	V	Providing for the Regulation of Police	The Police Act, 1861.
"	XVI	Providing for the licensing and regulation of Stage-Carriages.	The Stage-Carriages Act, 1861.
1862	III	Amending the Law relating to the use of a Government Seal.	The Government Seal Act, 1862.
1863	XVI	Making special provision for the levy of the Excise-duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.	The Excise (Spirits) Act, 1863.
"	XX	Enabling the Government to divest itself of the management of Religious Endowments.	The Religious Endowments Act, 1863.
"	XXIII	Providing for the adjudication of claims to waste lands.	The Waste Lands (Claims) Act, 1863.
"	XXXI	Giving effect to the publication of certain orders and other matters in the Gazette of India.	The Official Gazettes Act, 1863.
1864	III	Giving the Government certain powers with respect to Foreigners.	The Foreigners Act, 1864.
"	VI	Authorizing the punishment of whipping in certain cases.	The Whipping Act, 1864.
"	XV	Amending Act VIII of 1851 ( <i>for enabling Government to levy Tolls on public Roads and Bridges</i> ).	The Indian Tolls Act, 1864.
"	XVII	Providing for the constitution of an Office of Official Trustee.	The Official Trustees Act, 1864.
1865	XXI	Defining and amending the law relating to Intestate Succession among the Parsis.	The Parsi Intestate Succession Act, 1865.
1866	V	Amending in certain respects the Commercial Law of British India.	The Policies of Insurance (Marine and Fire) Assignment Act, 1866.

## (Schedule.)

THE SCHEDULE—*contd.*

1	2	3	4
Year	No.	Subject	Short Title
1866	XIV	Providing for the transfer to the Government of India of certain securities and moneys deposited in the High Courts of Judicature at Fort William, Madras and Bombay.	The Unclaimed Deposits Act, 1866.
1867	XVI	Authorizing the making of certain acting appointments to certain Judicial Offices.	The Acting Judges Act, 1867.
"	XXV	Providing for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books.	The Press and Registration of Books Act, 1867.
1870	I	Providing Rules relating to Quarantine.	The Indian Quarantine Act, 1870.
"	V	Enabling the High Courts at the Presidency-towns to deal with costs of petitions for certain moneys transferred to Government.	The Unclaimed Deposits Act, 1870.
"	VIII	Providing for the prevention of the murder of Female Infants.	The Female Infanticide Prevention Act, 1870.
"	XX	Correcting two clerical errors in the Court-fees Act, 1870.	The Court-fees Act (1870) Amendment Act, 1870.
"	XXVII	Amending the Indian Penal Code.	The Indian Penal Code Amendment Act, 1870.
1872	III	Providing a form of Marriage for persons who do not profess the Christian, Jewish, Hindu, Muhammadan, Parsi, Buddhist, Sikh or Jainia religion.	The Special Marriage Act, 1872.
"	XIX	Amending the definition of "Coin" in the Indian Penal Code.	The Indian Penal Code Amendment Act, 1872.
1875	V	Removing doubts as to the rights and liabilities of certain native soldiers.	The Unattested Sepoys Act, 1875.
"	X <sup>1</sup>	<i>Regulating the Procedure of the High Courts in the exercise of their original criminal jurisdiction.</i>	<i>The Advocate General's (Powers) Act, 1875.</i>
"	XIII	Amending the Law relating to Probates and Letters of Administration.	The Probate and Administration Act, 1875.

<sup>1</sup> This Act is now repealed by the Code of Criminal Procedure, 1908 (Act V of 1903), printed, *infra*, p. 380.

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject	Short Title.
1876	XVI	Amending the Stage-Carriages Act . . .	The Stage-Carriages Act (1861) Amendment Act, 1876.
1877	II	Amending Act XIII of 1875 . . .	The Probate and Administration Act, 1877.
"	IV	Regulating the procedure and increasing the jurisdiction of the Courts of Magistrates in the Presidency-towns.	The Presidency Magistrates (Court-fees) Act, 1877.
1879	XII	Amending the Registration Act, 1877, and the Limitation Act, 1877.	The Registration and Limitation Acts Amendment Act, 1879.
1882	VIII	Amending the Indian Penal Code . . .	The Indian Penal Code Amendment Act, 1882.
1883	II	Amending the Elephants' Preservation Act, 1879.	The Elephants' Preservation Act (1879) Amendment Act, 1883.
1884	I	Amending the Law relating to the granting of honorary degrees by the Universities at Calcutta, Madras and Bombay.	The Indian Universities (Honorary Degrees) Act, 1884.
1885	III	Amending the Transfer of Property Act, 1882.	The Transfer of Property Act (1882) Amendment Act, 1885.
"	IX	Amending the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.	The Excise and Sea Customs Law Amendment Act, 1885.
"	XV	Amending the Local Authorities Loan Act, 1879.	The Local Authorities Loan Act (1879) Amendment Act, 1885.
1886	II	Imposing a tax on income derived from sources other than agriculture.	The Indian Income-tax Act, 1886.
"	IV	Amending section 265 of the Indian Contract Act, 1872.	The Indian Contract Act (1872) Amendment Act, 1886.
"	X	Amending the Code of Criminal Procedure, 1882, and certain other Acts.	The Indian Criminal Law Amendment Act, 1886.
"	XVIII	Amending Act XXXVI of 1858 . . .	The Indian Lunatic Asylums Act (1858) Amendment Act, 1886.

(Schedule.)

THE SCHEDULE--*contd.*

1	2	3	4
Year.	No.	Subject	Short Title.
1887	II	Amending the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.	The Sea Customs Act (1878) Amendment Act, 1887.
"	III	Amending the Indian Evidence Act, 1872 .	The Indian Evidence Act (1872) Amendment Act, 1887.
<sup>1</sup> "	V	<i>Amending the Code of Criminal Procedure, 1882.</i>	<i>The Criminal Procedure Code (1882) Amendment Act, 1887.</i>
"	VI	Amending the Indian Companies Act, 1882	The Indian Companies Act (1882) Amendment Act, 1887.
1888	I	<i>Amending the Indian Stamp Act, 1879 .</i>	<i>The Indian Stamp Act (1879) Amendment Act, 1888.</i>
<sup>2</sup> "	II	Providing for the levy of a Customs-duty on Petroleum.	The Petroleum (Customs-duty) Act, 1888.
"	VIII	Removing doubts as to the legality of the levy of certain Tolls.	The Indian Tolls Act, 1888.
"	X	Amending the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.	The Presidency Small Cause Courts Law Amendment Act, 1888.
"	XI	Making an addition to the Indian Telegraph Act, 1885.	The Indian Telegraph (Presidency-towns) Act, 1888.
"	XVII	Amending the Indian Marine Act, 1887 .	The Indian Marine Act (1887) Amendment Act, 1888.
1889	VIII	Amending the Sea Customs Act, 1878, and the Indian Tariff Act, 1882.	The Sea Customs Act (1878) Amendment Act, 1889.
"	XX	Amending Act XXXVI of 1858 . . .	The Indian Lunatic Asylums Act (1858) Amendment Act, 1889.
1890	II	Amending Acts XVII of 1864, X of 1865, II of 1874 and V of 1881.	The Probate and Administration Act, 1890.
"	III	Amending Acts VI and VII of 1884 .	The Indian Steamships Law Amendment Act, 1890.

This Act is now repealed by the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.  
 \*This Act is now repealed by the Indian Stamp Act, 1893 (II of 1893).

THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
1890	X	Amending Act XXV of 1867 . . .	The Press and Registration of Books Act (1867) Amendment Act, 1890.
1*	*	* * * * *	* *
"	XVI	Amending the Births, Deaths and Marriages Registration Act, 1886.	The Births, Deaths and Marriages Registration Act (1886) Amendment Act, 1890.
"	XVIII	Amending the Indian Emigration Act, 1883.	The Indian Emigration Act (1883) Amendment Act, 1890.
"	XIX	Amending the Indian Salt Act, 1882 .	The Indian Salt Act (1882) Amendment Act, 1890.
1891	I	Amending the Cattle-trespass Act, 1871, and incorporating therein Act XVIII of 1883.	The Cattle-trespass Act (1871) Amendment Act, 1891.
"	II	Amending the Indian Christian Marriage Act, 1872.	The Indian Christian Marriage Act (1872) Amendment Act, 1891.
"	III	Amending the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882.	The Indian Evidence Act (1872) Amendment Act, 1891.
2 "	IV	<i>Amending the Code of Criminal Procedure, 1882.</i>	<i>The Criminal Procedure Code (1882) Amendment Act, 1891.</i>
"	V	Amending and supplementing the Indian Ports Act, 1889.	The Indian Ports Act, 1891.
"	VI	Amending certain Acts respecting Indian Merchant Shipping.	The Indian Merchant Shipping Law Amendment Act, 1891.
"	VII	Amending Act X of 1841 . . .	The Indian Registration of Ships Act (1841) Amendment Act, 1891.
"	IX	Amending the Indian Merchandise Marks Act, 1889, and the Sea Customs Act, 1878.	The Indian Merchandise Marks and Sea Customs Acts Amendment Act, 1891.

<sup>1</sup> The entry relating to Act XIV of 1890, was repealed by the Petroleum Act, 1899 (VIII of 1899).

<sup>2</sup> This Act is now repealed by the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 380.



THE SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
1891	X	Amending the Indian Penal Code and the Code of Criminal Procedure, 1882.	The Indian Criminal Law Amendment Act, 1891.
"	XIII	Amending the Inland Steam-vessels Act, 1884.	The Inland Steam-vessels Act (1884) Amendment Act, 1891.
1892	II	Validating certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872.	The Marriages' Validation Act, 1892.
"	VI	Amending the Indian Limitation Act, 1877, and the Code of Civil Procedure.	The Indian Limitation Act and Civil Procedure Code Amendment Act, 1892.
1893	V	Legalising in certain cases the execution within British India of capital sentences which have been passed by British Courts exercising in or with respect to territory beyond the limits of British India jurisdiction which the Governor General has in such territory.	The Foreign Jurisdiction (Capital Sentences) Act, 1893.
1894	II	Amending the Indian Ports Act, 1889	The Indian Ports Act (1889) Amendment Act, 1894.
"	III	Amending the Code of Criminal Procedure, 1882, and the Indian Penal Code.	The Indian Criminal Law Amendment Act, 1894.
"	VI	<i>Amending the Indian Stamp Act, 1879, with respect to Policies of Sea and Fire Insurance and Sale-certificates.</i>	<i>The Indian Stamp Act (1879) Amendment Act, 1894.</i>
"	VII	Amending the Prisoners Act, 1871	The Prisoners Act (1871) Amendment Act, 1894.
"	X	<i>Amending the Code of Criminal Procedure, 1882.</i>	<i>The Criminal Procedure Code (1882) Amendment Act, 1894.</i>
1895	III	Amending the Indian Penal Code, Act VI of 1864, <sup>1</sup> and the Indian Post-office Act, 1866.	The Indian Criminal Law Amendment Act, 1895.
"	IV	<i>Amending sections 306 and 371 of the Code of Criminal Procedure, 1882.</i>	<i>The Criminal Procedure Code (1882) Amendment Act, 1895.</i>

<sup>1</sup> So far as this Act relates to the Criminal Procedure Code, 1882 (Act X of 1882), it has been repealed by the Code of Criminal Procedure, 1898 (Act V of 1898), printed, *infra*, p. 389.

<sup>2</sup> This Act is now repealed by the Indian Stamp Act, 1899 (II of 1899).

<sup>3</sup> These Acts have now been repealed by the Code of Criminal Procedure, 1898 (Act V of 1898).

<sup>4</sup> This Act is now repealed by the Indian Post Office Act, 1898 (VI of 1898), printed, *infra*, p. 683.

THE SCHEDULE—*contd.*

1	2	3	4
Year	No	Subject.	Short Title.
1895	VII	Amending certain sections of the Code of Civil Procedure and the Punjab Laws Act, 1872.	The Punjab Laws Act Amendment Act, 1895.
"	VIII	Amending Act V of 1861 ( <i>an Act for the Regulation of Police</i> ).	The Police Act (1861) Amendment Act, 1895.
"	XIII	Amending sections 632 and 652 of the Code of Civil Procedure.	The Civil Procedure Code Amendment Act, 1895.
1896	I	Amending the Indian Emigration Act, 1883.	The Indian Emigration Act (1883) Amendment Act, 1896.
"	III	Amending the Indian Tariff Act, 1894 .	The Indian Tariff Act (1894) Amendment Act, 1896.
"	IV	Amending the Indian Ports Act, 1889 .	The Indian Ports Act (1889) Amendment Act, 1896.
"	V	Amending the Foreign Jurisdiction and Extradition Act, 1879.	The Foreign Jurisdiction and Extradition Act (1879) Amendment Act, 1896.
"	VI	Amending the Indian Penal Code . . .	The Indian Penal Code Amendment Act, 1896.
"	VII	Amending the Presidency Small Cause Courts Act, 1882.	The Presidency Small Cause Courts Act (1882) Amendment Act, 1896.
"	IX	Amending the Indian Railways Act, 1890 .	The Indian Railways Act (1890) Amendment Act, 1896.
"	XI	Amending the Legal Practitioners Act, 1879.	The Legal Practitioners Act, 1896.
"	XIII	Amending the Code of Criminal Procedure, 1882.	The Criminal Procedure Code (1882) Amendment Act, 1896.
"	XV	Amending the Glanders and Farcy Act, 1879.	The Glanders and Farcy Act (1879) Amendment Act, 1896.
* *	*	* * * * *	* *

<sup>1</sup> This Act is now repealed by the Code of Criminal Procedure, 1898 (Act V of 1898), printed *infra*, p. 380.

<sup>2</sup> The entry relating to Act XVI of 1898 (to amend the Post Office Act, 1896), was repealed by the Indian Post Office Act, 1898 (Act VI of 1898), printed, *infra*, p. 683.

*The Schedule—concl'd.*

1	2	3	4
Year.	No.	Subject.	Short Title.
1897	I	Amending Act XXXVII of 1850 ( <i>for regulating Inquiries into the behaviour of Public Servants</i> ).	The Public Servants (Inquiries) Act (1850) Amendment Act, 1897.
1 <sup>st</sup>	XIII	Amending the Indian Stamp Act, 1879.	The Indian Stamp Act (1879) Amendment Act 1897.

ACT No. XV of 1897.<sup>2</sup>

[22nd July, 1897.]

An Act to repeal the Cantonments Act Amendment Act, 1895,  
and to amend the Cantonments Act, 1889.<sup>3</sup>

WHEREAS it is expedient to repeal the Cantonments Act Amendment Act, 1895, and to amend the Cantonments Act, 1889; It is hereby enacted as follows:—

- (1) This Act may be called the Cantonments Act, 1897, and
- (2) It shall come into force at once.
2. The Cantonments Act Amendment Act, 1895, is hereby repealed.
3. In section 31 of the Cantonments Act, 1889, for the words “or commanding officer” the words “or commanding, medical or other officer” shall be substituted.

Title and  
commence-  
ment.  
Repeal of Act  
V of 1895.  
Amendment  
of section 31  
of Act XIII  
of 1889.

<sup>1</sup> This Act is now repealed by the Indian Stamp Act, 1899 (II of 1899).

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 113, and for Proceedings in Council, see *ibid*, 1897, Pt. VI, pp. 210 and 218.

As being part of Act XIII of 1889, it is in force in Upper Burma (except the Shan States), see the Burma Laws Act, 1898 (Act XIII of 1898), printed, Burma Code, Ed. 1899.

It has been extended to British Baluchistan by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), see Gazette of India, 1898, Pt. II, p. 48.

<sup>3</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 325.

(Secs. 1-4.)

ACT No. I OF 1898.<sup>1</sup>

[21st January, 1898.]

## AN Act to amend the Stage-Carriages Act, 1861.

WHEREAS it is expedient to amend the Stage-Carriages Act, 1861<sup>2</sup>; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Stage-Carriages Act (1861) Amendment Act, 1898.

Repeal of proviso to section 1, Act XVI, 1861, and of section 2, Act XVI, 1876.

2. The proviso to section 1 of the Stage-Carriages Act, 1861, and section 2 of the Stage-Carriages Act (1861) Amendment Act, 1876,<sup>3</sup> are hereby repealed.

Substitution of new paragraph in section 4, Act XVI, 1861.

3. The first paragraph of section 4 of the Stage-Carriages Act, 1861,<sup>2</sup> is hereby repealed, and the following paragraph is substituted therefor, namely:—

“For every such license there shall be paid by the proprietor of the stage-carriage the sum of five rupees, or such less sum as the Local Government may fix, and such license shall be in force for one year from the date thereof.”

Addition of new section after section 20, Act XVI, 1861.

4. After section 20 of the said Act the following section shall be added, namely:—

Power to make rules

“20A. (1) The Local Government may, by notification in the official Gazette, make rules to carry out the purposes and objects of this Act in the territories under its administration or any part of the said territories.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe forms for licenses under this Act, the sums payable for the same and the conditions on which they may be granted, and the cases in which they may be revoked;
- (b) provide for the inspection of stage-carriages, and of the animals employed in drawing them; and
- (c) regulate the number and length of the stages for which animals may be driven in stage-carriages, and the manner in which they shall be harnessed and yoked.

(3) In making any rule under this section the Local Government may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees.”

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 115; for Report of the Select Committee, see *ibid*, 1898, Pt. V, p. 1; and for Proceedings in Council see *ibid*, 1897, Pt. VI, pp. 221 and 254, and *ibid*, 1898, Pt. VI, p. 10.

<sup>2</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 396.

<sup>3</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 546.

5. After section 21 of the said Act the following sections shall be added, namely :—

Addition of sections after section 21, Act XVI, 1861.

“22. This Act, as amended by subsequent Acts, extends to the whole of British India; but it shall not apply to carriages ordinarily plying for hire within the limits of any municipality or cantonment or other place in which any law for the regulation of carriages is for the time being in force.<sup>1</sup>

Extent of Act.

23. The Local Government may, by notification in the official Gazette, exempt any carriages or class of carriages from all or any of the provisions of this Act.”

Power to Local Government to exempt.

[The Indian Paper Currency Act, 1898 (II of 1898) has not been reprinted in this volume, as it will expire within two years and six months from the 21st January, 1898.]

ACT No. III of 1898.<sup>2</sup>

[11th February, 1898.]

**An Act to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings.**

WHEREAS it is expedient to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings; It is hereby enacted as follows :—

1. (1) This Act may be called the Lepers Act, 1898.

Title, extent and commencement.

(2) It extends to the whole of British India, inclusive of \* \*,<sup>3</sup> British Baluchistan, the Santhal Parganas and the Pargana of Spiti; but

(3) It shall not come into force in any part thereof until the Local Government,<sup>4</sup> as hereinafter provided, has declared it applicable thereto.

(4) The Local Government may, by notification in the official Gazette, apply this Act or any part thereof to the whole or any portion of the territories for the time being under its administration, and may in like manner amend or cancel any such notification.

<sup>1</sup> For law regulating carriages in municipalities and Cantonments in :—

(1) Bengal, *see* Beng. Act V of 1866, printed, Bengal Code, Vol. II, Ed. 1890, p. 79, and the Calcutta Hackney Carriage Act, 1891 (Beng. Act II of 1891)

(2) Bombay, *see* Bombay Act VI of 1863, printed, Bombay Code, Vol. II, Ed. 1896, p. 52.

(3) Assam, Ajmere, Coorg, North-Western Provinces and Oudh, Central Provinces, Punjab and Burma, *see* the Hackney Carriage Act, 1870 (XIV of 1870), printed in the Code of Acts relating to these Provinces.

(4) Madras, *see* the Madras Hackney Carriage Act, 1870 (III of 1870), printed, Madras Code, Ed. 1888, p. 346.

<sup>2</sup> For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. 231; for Report of the Select Committee, *see* *ibid.*, 1898, Pt. V, p. 7; and for Proceedings in Council, *see* *ibid.*, 1896, Pt. VI, p. 227, *ibid.*, 1897, Pt. VI, p. 248, and *ibid.*, 1898, Pt. VI, pp. 10 and 18.

The Act was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), *see* First Schedule, printed, Burma Code, Ed. 1899.

<sup>3</sup> The words “Upper Burma” were repealed by the Burma Laws Act, 1898 (XIII of 1898), *see* the Fifth Schedule.

<sup>4</sup> As to law in force in Bengal, *see* s. 19, *infra*, and in Assam the note to that section.

This Act has been applied to the whole of Burma (except the Shan States) with effect from the 1st January, 1899, *see* Burma Gazette, 1898, Pt. I, p. 576.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "leper" means any person suffering from any variety of leprosy in whom the process of ulceration has commenced;

(2) "pauper leper" means a leper—

(a) who publicly solicits alms or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, or

(b) who is at large without any ostensible means of subsistence;

(3) "leper asylum" means a leper asylum appointed under section 3;

(4) "Board" means a Board constituted under section 5; and

(5) "District Magistrate" includes a Chief Presidency Magistrate.

Appointment of leper asylums by Local Government.

3. The Local Government may,<sup>1</sup> by notification in the official Gazette, appoint any place to be a leper asylum for the purposes of this Act and specify the local areas from which lepers may be sent to such asylum, and may, in like manner, alter or cancel any such notification.

Appointment of Inspectors of Lepers and Superintendents of Asylums.

4. Subject to any rules which may be made under section 16, the Local Government may appoint any Medical Officer of the Government or other qualified Medical man to be an Inspector of Lepers<sup>2</sup> and any person to be a Superintendent<sup>3</sup> of a Leper Asylum, with such establishment as may, in its opinion, be necessary, and every Inspector or Superintendent so appointed shall be deemed to be a public servant.

Constitution of Board.

5. The Local Government shall constitute for every leper asylum appointed under section 3 a Board<sup>4</sup> consisting of not less than three members, one of whom at least shall be a Medical Officer of the Government.

Arrest of pauper lepers.

6. (1) Within any local area which has been specified under section 3 any police-officer may arrest without a warrant any person who appears to him to be a pauper leper.

(2) Such police-officer shall forthwith take or send the person so arrested to the nearest convenient police-station.

Person arrested how to be dealt with.

7. Every person brought to a police-station under the last foregoing section shall, without unnecessary delay, be taken before an Inspector of Lepers, who,—

(a) if he finds that such person is not a leper within the meaning of section 2, shall give him a certificate in Form A set forth in the schedule, whereupon such person shall be forthwith released from arrest;

<sup>1</sup> For notifications declaring places to be leper Asylums in Rangoon and Mandalay and the areas from which lepers may be sent to these Asylums, *see* Burma Gazette, 1898, Pt. I, p. 576.

<sup>2</sup> For Inspectors of Lepers appointed for certain towns in Burma, *see* Burma Gazette, 1898, Pt. I, p. 576.

<sup>3</sup> For notification appointing Superintendents of Leper Asylums in Burma, *see* Burma Gazette, 1898, Pt. I, p. 576.

<sup>4</sup> For notifications constituting Boards for Leper Asylums at Rangoon and Mandalay, *see* Burma Gazette, 1898, Pt. I, p. 567.

(b) if he finds that such person is a leper within the meaning of section 2, shall give to the police-officer, in whose custody the leper is, a certificate in Form B set forth in the schedule, whereupon the leper shall, without unnecessary delay, be taken before a Magistrate having jurisdiction under this Act.

8. (1) If it appears to any Presidency Magistrate or Magistrate of the first class or to any other Magistrate authorised in this behalf by the Local Government, upon the certificate in Form B set forth in the schedule, that any person is a leper, and if it further appears to the Magistrate that the person is a pauper leper, he may, after recording the evidence on the above-mentioned points, and his order thereon, send the pauper leper in charge of a police-officer, together with an order in Form C set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate :

Procedure with regard to pauper lepers.

Provided that, if the person denies the allegation of leprosy, the Magistrate shall call and examine the Inspector of Lepers, and shall take such further evidence as may be necessary to support or to rebut the allegation that the person is a leper, and may for this purpose adjourn the enquiry from time to time, remanding the person for observation or for other reason to such place as may be convenient, or admitting him to bail :

Provided also that if any friend or relative of any person found to be a pauper leper shall undertake in writing to the satisfaction of the Magistrate that such pauper leper shall be properly taken care of and shall be prevented from publicly begging in any area specified under section 3, the Magistrate, instead of sending the leper to an asylum, may make the leper over to the care of such friend or relative, requiring him, if he thinks fit, to enter into a bond with one or more sureties, to which the provisions of section 514 of the Code of Criminal Procedure <sup>1</sup> shall be applicable.

(2) If the Magistrate finds that such person is not a leper, or that, if a leper, he is not a pauper leper, he shall forthwith discharge him.

9. (1) The Local Government may, by notification in the official Gazette, order that no leper shall, within any area specified under section 3,<sup>2</sup>—

Power to prohibit lepers from following certain trades and doing certain acts.

- (a) personally prepare for sale or sell any article of food or drink or any drugs or clothing intended for human use ; or
- (b) bathe, wash clothes or take water from any public well or tank debarred by any municipal or local bye-law from use by lepers ; or
- (c) drive, conduct or ride in any public carriage plying for hire other than a railway carriage ; or

<sup>1</sup> See Act V of 1898, printed, *infra*, p. 380.

<sup>2</sup> For notification issued in exercise of the powers conferred by this section for certain towns in Burma, see Burma Gazette, 1898, Pt. I, p. 577.

(Secs. 10-12.)

(d) exercise any trade or calling which may by such notification be prohibited to lepers.

(2) Any such notification may comprise all or any of the above prohibitions.

(3) Whoever disobeys any order made pursuant to the powers conferred by this section shall be punishable with fine which may extend to twenty rupees :

Provided that, when any person is accused of an offence under this section, the Magistrate before whom he is accused shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate, in Form B set forth in the schedule, in respect of such person.

Conviction  
after previous  
conviction.

10. (1) Whenever any leper who has been convicted of an offence punishable under the last foregoing section is again convicted of any offence punishable under that section, the Magistrate may, in addition to, or in lieu of, any punishment to which such leper may be liable, require him to enter into a bond, with one or more sureties, binding him to depart forthwith from the local area specified under section 3 in which he is, and not to enter that or any other local area so specified until an Inspector of Lepers shall have given him a certificate in Form A set forth in the schedule.

(2) If any such leper fails to furnish any security required under sub-section (1), the Magistrate may send him in charge of a police-officer, with an order in Form D set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate.

(3) The powers conferred by this section shall only be exercised by a Presidency Magistrate or Magistrate of the first class.

Penalty on  
person em-  
ploying  
lepers in pro-  
hibited trade.

11. Any person who, within any area specified under section 3, knowingly employs a leper in any trade or calling prohibited by order under section 9 shall be punishable with fine which may extend to fifty rupees :

Provided that the alleged leper shall be produced before the Magistrate and the Magistrate shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate in Form B set forth in the schedule in respect of such alleged leper.

Re-arrest of  
escaped  
lepers.

12. Whoever, having been sent to a leper asylum under an order of a Magistrate in Form C or Form D set forth in the schedule, escapes from, or leaves, the asylum without the permission in writing of the Superintendent thereof, may be arrested by any police-officer without a warrant, and upon arrest shall be forthwith taken back to the leper asylum.



13. Two or more members of the Board, one of whom shall be the Medical Officer, shall, once at least in every three months, together inspect the leper asylum for which they are constituted, and see and examine (a) every leper therein admitted since the last inspection, together with the order for his admission, and (b), as far as circumstances will permit, every other leper therein, and shall enter in a book to be kept for the purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lepers therein.

Inspection by Board.

14. Any two members of the Board, one of whom shall be the Medical Officer, may at any time, by an order in writing in Form E set forth in the schedule and signed by them, direct the discharge from the leper asylum of any leper detained therein under the provisions of this Act.

Order of discharge by Board.

15. Any person, other than a pauper leper, in respect of whom an Inspector of Lepers has issued a certificate, in Form B set forth in the schedule, declaring him to be a leper, or has refused to issue a certificate in Form A set forth in the schedule, may appeal against the issue or refusal of any such certificate to such officer as may be appointed by the Local Government in this behalf, and the decision of such officer shall be final.

Appeals.

16. The Local Government may, by notification in the official Gazette make rules generally for carrying out the purposes of this Act,<sup>1</sup> and in particular—

Power of the Local Government to make rules.

(a) for the guidance of all or any of the officers discharging any duty under this Act; and

(b) for the management of, and the maintenance of discipline in, a leper asylum.

17. Notwithstanding anything in any enactment with respect to the purposes to which the funds or other property of a local authority may be applied, any local authority may—

Power to local authorities to expend funds and appropriate property to asylums.

(a) establish or maintain, or establish and maintain, or contribute towards the cost of the establishment or maintenance or the establishment and maintenance of, a leper asylum either within or without the local limits of such local authority;

(b) with the previous sanction of the Local Government and subject to such conditions as that Government may prescribe, appropriate any immoveable property vested in, or under the control of, such body, as a site for, or for use as, a leper asylum.

18. No suit, prosecution or other legal proceeding shall lie against any officer or person in respect of anything in good faith<sup>2</sup> done or intended to be done under, or in pursuance of, the provisions of this Act.

Protection to persons acting *bona fide* under Act.

<sup>1</sup> For rules made by the Government of Burma in exercise of the powers conferred by this section for Mandalay and Rangoon, see Burma Gazette, 1898, Pt. I, p. 577.

<sup>2</sup> As to definition of good faith, see s. 3 (20) of the General Clauses Act, 1897 (X of 1897), printed, *supra*, p. 316.

## (Sec. 19. Schedule.)

Power to  
Lieutenant-  
Governor of  
Bengal to  
notify cessa-  
tion of  
Bengal Act V  
of 1895 in  
certain areas.

19. When any part of this Act has been applied under sub-section (4) of section 1 to the whole or any portion of the territories administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor may, by notification in the official Gazette, direct that the whole or any part of the Lepers Act, 1895,<sup>1</sup> shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the portion of the said territories to which this Act has been so applied.

Ben. Act V  
of 1895.

## SCHEDULE.

## A.—CERTIFICATE.

(Section 7.)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the                      day of                      at  
personally examined (*here enter name of person examined*), and that the said  
is not a leper as defined by the Lepers Act, 1895.  
Given under my hand this                      day                      189 .

(Signature.)

*Inspector of Lepers.*

## B.—CERTIFICATE.

(Section 7.)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the                      day of                      at  
personally examined (*here enter name of leper*),  
and that the said                      is a leper as  
defined by the Lepers Act, 1895, and that I have formed this opinion on the  
following grounds, namely,—

(*Here state the grounds.*)

Given under my hand this                      day of                      189 .

(Signature.)

*Inspector of Lepers.*

<sup>1</sup> The Lepers Act, 1895 (Bengal Act V of 1895), was extended to Assam by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), printed, General Acts, Vol. II, Ed. 1898, p. 467, see Calcutta Gazette, 1896, Pt. II, p. 787.

## C.—WARRANT OF DETENTION.

(Section 8.)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT .

WHEREAS it has been made to appear to me that (*name and description*) is a pauper leper as defined in the Lepers Act, 1898 :

This is to authorise you, the said Superintendent, to receive the said . . . into your custody together with this order and <sup>him</sup><sub>her</sub> safely to keep in the said asylum until <sup>he</sup><sub>she</sub> shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this . . . day of . . . 189 .

Seal.

(Signature.)

Magistrate.

## D.—WARRANT OF DETENTION.

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT .

WHEREAS (*name and description*) has this day been convicted by me of an offence punishable under section 9 of the Lepers Act, 1898, and whereas it has been proved before me that the said (*name and description*) was previously convicted of an offence punishable under the same section :

This is to authorise you, the said Superintendent, to receive the said . . . into your custody together with this order and <sup>him</sup><sub>her</sub> safely to keep in the said asylum until <sup>he</sup><sub>she</sub> shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this . . . day of . . . 189 .

Seal.

(Signature.)

Magistrate.

## E.—ORDER OF DISCHARGE BY BOARD.\*

(Section 14.)

To

THE SUPERINTENDENT OF THE LEPER ASYLUM AT .

WHEREAS (*name and description*) was committed to your custody under

\* A corresponding form may be used by the District Magistrate for orders of discharge issued under section 10 (2).

(Secs. 1-2.)

an order dated the \_\_\_\_\_ day of \_\_\_\_\_ 189  
 and there have appeared to us sufficient grounds for the opinion that <sup>he</sup> <sub>she</sub>  
 can be released without hazard or inconvenience to the community :

This is to authorise and require you forthwith to discharge the said  
 (name) from your custody.

Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_ 189 .

(Signatures.)

Members of the Asylum Board.

ACT No. IV of 1898.<sup>1</sup>

[18th February, 1898.]

An Act to amend the Indian Penal Code.<sup>2</sup>

WHEREAS it is expedient to amend the Indian Penal Code<sup>2</sup>; It is hereby XLV of 18  
 enacted as follows :—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Indian Penal Code Amendment Act,  
 1898; and

(2) It shall come into force at once.

Substitution  
of new sec-  
tion for sec-  
tion 4, Act  
XLV, 1860.

2. Section 4 of the Indian Penal Code<sup>2</sup> is hereby repealed, and the follow- XLV of 18  
 ing section is substituted therefor, namely :—

Extension of  
Code to  
extra-terri-  
torial offen-  
ces.

“ 4. The provisions of this Code apply also to any offence committed by—

(1) any Native Indian subject of Her Majesty in any place without and  
 beyond British India ;

(2) any other British subject within the territories of any Native Prince  
 or Chief in India ;

(3) any servant of the Queen, whether a British subject or not, within  
 the territories of any Native Prince or Chief in India.

*Explanation.*—In this section the word ‘offence’ includes every act com-  
 mitted outside British India which, if committed in British India, would be  
 punishable under this Code.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 181; for Report of the Select Committee, see *ibid*, 1898, Pt. V, p. 13; and for Proceedings in Council, see *ibid*, 1897, Pt. VI, pp. 237 and 254, and *ibid*, 1898, Pt. VI, pp. 19 and 23.

The Act is in force in Upper Burma (except the Shan States) as being part of the Indian Penal Code (Act XLV of 1860), see the Burma Laws Act, 1898 (XIII of 1898), First Schedule, printed, Burma Code, Ed. 1899.

<sup>2</sup> Printed, General Acts, Vol. I, Ed 1898, p. 240.

(Secs. 3-4.)

*Illustrations.*

(a) A, a coolie, who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder in any place in British India in which he may be found.

(b) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found.

(c) C, a foreigner who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found.

(d) D, a British subject living in Indore, instigates E to commit a murder in Bombay. D is guilty of abetting murder."

3. After section 108 of the Indian Penal Code<sup>1</sup> the following section shall be added, namely :—

" 108A. A person abets an offence within the meaning of this Code who, in British India, abets the commission of any act without and beyond British India which would constitute an offence if committed in British India.

Insertion of new section after section 108, Act XLV, 1860. Abetment in British India of offences outside it.

*Illustration.*

A, in British India, instigates B, a foreigner in Goa, to commit a murder in Goa. A is guilty of abetting murder."

4. Section 124A of the Indian Penal Code is hereby repealed, and the following section is substituted therefor, namely :—

Substitution of new section for section 124A, Act XLV, 1860. Sedition.

" 124A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

*Explanation 1.*—The expression 'disaffection' includes disloyalty and all feelings of enmity.

*Explanation 2.*—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

*Explanation 3.*—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to

<sup>1</sup> Printed, General Acts, Vol. I. Ed. 1898, p. 240.

(Secs. 5-6.)

excite hatred, contempt or disaffection do not constitute an offence under this section."

Addition of new section after section 153, Act XLV, 1860. Promoting enmity between classes.

5. After section 153 of the Indian Penal Code<sup>1</sup> the following section shall be inserted, namely :—

"153A. Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty's subjects shall be punished with imprisonment which may extend to two years, or with fine, or with both.

*Explanation.*—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty's subjects."

Substitution of new section for section 505, Act XLV, 1860. Statements conducing to public mischief.

6. Section 505 of the Indian Penal Code<sup>1</sup> is hereby repealed and the following section is substituted therefor, namely :—

"505. Whoever makes, publishes or circulates any statement, rumour or report,—

- (a) with intent to cause, or which is likely to cause, any officer, soldier or sailor in the army or navy of Her Majesty or in the Royal Indian Marine or in the Imperial Service Troops to mutiny or otherwise disregard or fail in his duty as such ; or
- (b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity ; or
- (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community ;

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

*Exception.*—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid."

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

## THE CODE OF CRIMINAL PROCEDURE, 1898.

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## (Part I.—Preliminary. Chap. I. Sec. 1.)

ACT No. V OF 1898.<sup>1</sup>

[22nd March, 1898.]

## An Act to consolidate and amend the law relating to Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

## CHAPTER I.

Short title.  
Commence-  
ment.  
Extent.

1. (1) This Act may be called the Code of Criminal Procedure, 1898; and it shall come into force on the first day of July, 1898.

(2) It extends to the whole of British India; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 353; for Report of the Select Committee, see *ibid*, 1898, Pt. V, p. 19; and for Proceedings in Council, see *ibid*, 1897, Pt. VI, pp. 238 and 254, and *ibid*, 1898, pp. 22, 101 and 175.

This Act has been declared in force under s. 3 of the Santhal Parganas Settlement Regulation (III of 1872) as amended by the Santhal Parganas Laws Regulation, 1886 (III of 1886), to be in force in the Santhal Parganas, see Calcutta Gazette, 1898, Pt. I, p. 665.

It has been extended, under s. 5 of the Angul District Regulation, 1894 (I of 1894), to the District of Angul, with effect from the 1st August, 1898, see Calcutta Gazette, 1898, Pt. I, p. 779.

It has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898). Printed Burma Code, Ed. 1899.

It has ceased to be in force, by notification under s. 2 of the Assam Frontier Tracts Regulation, 1880 (II of 1880), printed, Assam Code, Ed. 1897, p. 224, in the following places, namely:—

the Garo Hills, the Khasi and Jaintia Hills, the Nagá Hills, the North Cachar Sub-division of the Cachar District, the Mikir Hill-tracts in the Nowgong District, the Dibrugarh Frontier Tract in the Lakhimpur District and the Lushai Hills, see Assam Gazette, 1898, Pt. II, p. 788.

It has been declared in force, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (XIV of 1874), in the Scheduled Districts in Ganjam and Vizagapatnam, see Port St. George Gazette, 1898, Pt. I, p. 306, and Gazette of India, 1898, Pt. I, p. 869; and by notification under the same section and section 5A in the following other Scheduled Districts, namely:—

the Districts of Hazaribagh, Lohardaga (now the Ranchi district, see Calcutta Gazette, 1899, Pt. I, p. 44), Manbhum and Palamu and in Pargana Dhalbhum and the Kolhan in the Singhbhum District, see Calcutta Gazette, 1898, Pt. I, p. 714, and Gazette of India, 1899 Pt. I, p. 779.

It has been extended, by notification under ss 5 and 5A of the Act last-mentioned, to British Baluchistan, see Gazette of India, 1898, Pt. II, p. 221.

It was extended, by notification under s 8 (1) of the Upper Burma Laws Act, 1886 (XX of 1886), and ss. 4 and 5 of the Shan States Act, 1888 (XV of 1888), to the Shan States, see Burma Gazette, 1898, Pt. I, p. 305.

Certain portions of the Code have been declared, by notification under s. 3 (2) of the Kachin Hill-tribes Regulation, 1895 (I of 1895), to be applicable to members of a hill-tribe in a hill-tract; and under s. 3 (2) of the Chin Hills Regulation, 1896 (V of 1896), certain portions have been declared to be applicable to Chins in the Chin Hills. See Burma Gazette, 1898, Pt. I p. 322.



## (Part I.—Preliminary. Chap I. Sec. 2.)

pecial or local law now in force, or any special jurisdiction or power<sup>1</sup> conferred, or any special form of procedure prescribed, by any other law for the time being in force,<sup>2</sup> or shall apply to—

- (a) the Commissioners of Police in the towns of Calcutta, Madras and Bombay, or the police in the towns of Calcutta and Bombay;<sup>3</sup>
- (b) heads of villages in the Presidency of Fort St. George;<sup>4</sup> or
- (c) village police-officers in the Presidency of Bombay:<sup>5</sup>

Provided that the Local Government may, if it thinks fit, with the sanction of the Governor General in Council, by notification in the official Gazette, extend any of the provisions of this Code, with any necessary modifications, to such excepted persons.

2. (1) On and from the first day of July, 1898, the enactments mentioned in the first schedule shall be repealed to the extent specified in the fourth column hereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed, or to render unlawful the continuance of any confinement which is then lawful. Repeal of enactments.

(2) All notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed and orders, rules and appointments made, under any enactment hereby repealed, or under any enactment repealed by any such enactment, and which are in force immediately before the first day of July, 1898, shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding section of this Code. Notifications, etc., under repealed Acts.

(3) The provisions of this Code shall apply to all proceedings instituted after the commencement of this Code, and, so far as may be, to all cases pending in any Criminal Court when this Code comes into force. Pending cases.

<sup>1</sup>For power to exempt the Judicial Commissioner of Lower Burma and the Recorder of Rangoon or the Special Court in Burma from the operation of such parts of the Code as relate to the mode of recording judgments, orders and sentences and of taking down the evidence of witnesses, see the Lower Burma Courts Act, 1889 (XI of 1889), s. 92 (2), printed, Burma Code, Ed. 1899, p. 332.

As to power of Governor General in Council to make rules conferring powers of original criminal jurisdiction on Indian Marine Courts, see the Indian Marine Courts Act, 1887 (XIV of 1887), s. 70 (2), printed, General Acts, Vol. V, Ed. 1898, p. 164.

<sup>2</sup>See for example the Indian Articles of War (Act V of 1809), printed, General Acts, Vol. II, Ed. 1898, p. 38.

<sup>3</sup>As to Calcutta, see the Calcutta Police Act, 1866 (Bon. Act IV of 1866); as to Madras, see the Madras City Police Act, 1888 (Mad. Act III of 1888); as to Bombay, see Act XIII of 1856, Act XLVIII of 1860, as amended by Bom. Act IV of 1882, printed, Bombay Code, Vol. I, Ed. 1898, pp. 74 and 108, respectively.

<sup>4</sup>See Mad. Reg. XI of 1816, printed, Madras Code, Ed. 1888, p. 63, and Mad. Reg. IV of 1821, printed, *ibid*, p. 80.

<sup>5</sup>See the Bombay Village Police Act, 1867 (Bom. Act VIII of 1867), printed, Bombay Code, Vol. II, Ed. 1896, p. 126.

References  
to Code of  
Criminal  
Procedure  
and other  
repealed  
enactments.

3. (1) In every enactment passed before this Code comes into force, in which reference is made to, or to any Chapter or section of, the Code of Criminal Procedure, Act XXV of 1861 or Act X of 1872, or Act X of 1882, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding Chapter or section.

Expressions  
in former  
Acts.

(2) In every enactment passed before this Code comes into force the expressions "Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate," "Subordinate Magistrate, first class," and "Subordinate Magistrate, second class," shall respectively be deemed to mean "Magistrate of the first class," "Magistrate of the second class" and "Magistrate of the third class," the expression "Magistrate of a division of a district" shall be deemed to mean "Sub-divisional Magistrate," the expression "Magistrate of the district" shall be deemed to mean "District Magistrate," the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate," and the expression "Joint Sessions Judge" shall mean "Additional Sessions Judge."

Definitions.

4. (1) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context :—

"Advocate  
General."

(a) "Advocate General" includes also a Government Advocate, or, where there is no Advocate General or Government Advocate, such officer as the Local Government may, from time to time, appoint in this behalf :

"Bailable  
offence."  
"Non-bail  
able offence."

(b) "bailable offence" means an offence shewn as bailable in the second schedule, or which is made bailable by any other law for the time being in force ; and "non-bailable offence" means any other offence :

"Charge."

(c) "charge" includes any head of charge when the charge contains more heads than one :

"Chief  
Justice."

(d) "Chief Justice" includes also the Chief Judge of the Chief Court of the Punjab and the Recorder of Rangoon :

"Clerk of the  
Crown."

(e) "Clerk of the Crown" includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the Crown :

"Cognizable  
offence."  
"Cognizable  
case."

(f) "cognizable offence" means an offence for, and "cognizable case" means a case in, which a police-officer, within or without the presidency-towns, may, in accordance with the second schedule, or under any law for the time being in force, arrest without warrant :

## (Part I.—Preliminary. Chap. I. Sec. 4.)

- (g) "Commissioner of Police" includes a Deputy Commissioner of Police : "Commissioner of Police."
- (h) "complaint" means the allegation made orally or in writing to a Magistrate, with a view to his taking action, under this Code, that some person, whether known or unknown, has committed an offence, but it does not include the report of a police-officer : "Complaint."
- (i) "European British subject" means— "European British subject."
- (i) any subject of Her Majesty born, naturalised or domiciled in the United Kingdom of Great Britain and Ireland or in any of the European, American or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand or in the Colony of the Cape of Good Hope or Natal ;
- (ii) any child or grand-child of any such person by legitimate descent :
- (j)<sup>1</sup> "High Court" means, in reference to proceedings against European British subjects or persons jointly charged with European British subjects,<sup>2</sup> the High Courts of Judicature at Fort William, Madras and Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Punjab and the Court of the Recorder of Rangoon : in other cases "High Court" means the highest Court of criminal appeal or revision for any local area ; or, where no such Court is established under any law for the time being in force, such officer as the Governor General in Council may appoint in this behalf : "High Court."
- (k) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court : "Inquiry."
- (l) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf : "Investigation."
- (m) "judicial proceeding"<sup>3</sup> includes any proceeding in the course of which evidence is or may be legally taken on oath : "Judicial proceeding."
- (n) "non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer, within or without a presidency-town, may not arrest without warrant : "Non-cognizable offence." "Non-cognizable case."

<sup>1</sup> For meaning of "High Court in Upper Burma," see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Sch., s. 1. Printed Burma Code, Ed. 1899. See also another definition at s. 266, *infra*.

<sup>2</sup> See Ch. XXIII, *infra*.

<sup>3</sup> Cf. the Indian Penal Code (Act XLV of 1860), s. 193, *explanation 1*, printed, General Acts, Vol. I, Ed. 1898, p. 240.

- "Offence." (o) "offence" means any act or omission made punishable by any law for the time being in force ;  
it also includes any act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 <sup>1</sup>;
- "Officer in charge of a police station." (p) "officer in charge of a police-station"<sup>2</sup> includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the Local Government so directs, any other police-officer so present :
- "Place." (q) "place" includes also a house, building, tent and vessel :
- "Pleader." (r) "pleader," used with reference to any proceeding in any Court, means a pleader authorised under any law<sup>3</sup> for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorised, and (2) any mukhtar or other person appointed with the permission of the Court to act in such proceeding :
- "Police-station." (s) "police-station" means any post or place declared, generally or specially, by the Local Government to be a police-station, and includes any local area specified by the Local Government in this behalf :
- "Public Prosecutor." (t) "Public Prosecutor" means any person appointed under section 492 and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of Her Majesty in any High Court in the exercise of its original criminal jurisdiction :
- "Subdivision." (u) "subdivision" means a subdivision of a district :<sup>4</sup>
- "Summons-case." (v) "summons-case" means a case relating to an offence, and not being a warrant-case : and
- "Warrant-case." (w) "warrant-case" means a case relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months.

Words referring to acts.  
Words to have same meaning as in Indian Penal Code.

(2) Words which refer to acts done, extend also to illegal omissions ; and all words and expressions used herein and defined in the Indian Penal Code and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code. XLV.

<sup>1</sup> Printed General Acts, Vol. II, Ed. 1898, p. 183.

<sup>2</sup> Cf. the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Sch. ss. VI and VII. Burma Code, Ed. 1899.

<sup>3</sup> See the Legal Practitioners Act, 1846 (I of 1846) ; the Legal Practitioners Act, 1853 (XX of 1853) ; the Legal Practitioners Act, 1879 (XVIII of 1879) ; the Legal Practitioners Act, 1884 (IX of 1884). The first two Acts are printed in Vol. I, the third Act in Vol. III, and the last in Vol. IV of the General Acts, Ed. 1898.

<sup>4</sup> See s. 8, *infra*.

(Part I.—Preliminary. Chap. I. Sec. 5. Part II.—Constitution and Powers of Criminal Courts and Offices. Chap. II.—Of the Constitution of Criminal Courts and Offices. Secs. 6-7.)

1860. 5. (1) All offences under the Indian Penal Code shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

Trial of offences under Penal Code.

(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

Trial of offences against other laws.

## PART II.

### CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES.

#### CHAPTER II.

##### OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

###### A.—Classes of Criminal Courts.

<sup>1</sup> 6. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be five classes of Criminal Courts in British India, namely :—

Classes of Criminal Courts.

I.—Courts of Session :

II.—Presidency Magistrates :

III.—Magistrates of the first class :

IV.—Magistrates of the second class :

V.—Magistrates of the third class.

###### B.—Territorial Divisions

<sup>2</sup> 7. (1) Every province (excluding the presidency-towns) shall be a sessions division, or shall consist of sessions divisions : and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

Sessions divisions and districts.

<sup>1</sup> In places where the Punjab Frontier Crimes Regulation is in force, cases may be tried by a Council of Elders. See the Punjab Frontier Crimes Regulation, 1887 (IV of 1887), s. 13 (1), Punjab Code, Ed. 1888, p. 393 ; see also s. 15 of the same Regulation for executing sentences passed on the finding of Council of Elders. For bar of second trial before any of these Courts, see same Regulation, s. 17 (3).

<sup>2</sup> As to Courts of Session in Upper Burma, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Sch. s. II ; in Lower Burma, see the Lower Burma Courts Act, 1889 (XI of 1889), s. 29, printed, Burma Code, Ed. 1899.

(Part II.—*Constitution and Powers of Criminal Courts and Offices.* Chap.  
II.—*Of the Constitution of Criminal Courts and Offices.* Secs. 8-10.)

Power to alter divisions and districts.

(2) The Local Government may alter the limits, or, with the previous sanction of the Governor General in Council, the number, of such divisions and districts.

Existing divisions and districts maintained till altered. Presidency-towns to be deemed districts. Power to divide districts into subdivisions.

(3) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

(4) Every presidency-town shall, for the purposes of this Code, be deemed to be a district.

8. (1) The Local Government may divide any district outside the presidency-towns into subdivisions, or make any portion of any such district a subdivision, and may alter the limits of any subdivision.

Existing subdivisions maintained.

(2) All existing subdivisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.

*C.—Courts and Offices outside the Presidency-towns.*

Court of Session.

9. (1) The Local Government shall establish a Court of Session for every sessions division, and appoint a Judge of such Court.

(2) The Local Government may, by general or special order in the official Gazette, direct at what place or places the Court of Session shall hold its sitting; but, until such order be made, the Courts of Session shall hold their sittings as heretofore.

(3) The Local Government may also appoint Additional Sessions Judges, and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

(4) A Sessions Judge of one sessions division may be appointed by the Local Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the Local Government may direct.

(5) All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

District Magistrate.

10. (1) In every district outside the presidency-towns the Local Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

(2) The Local Government may appoint any Magistrate of the first class to be an Additional District Magistrate for a period not exceeding six months, and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code as the Local Government may direct.

(Part II.—*Constitution and Powers of Criminal Courts and Offices. Chap.*

*II.—Of the Constitution of Criminal Courts and Offices. Secs. 11-14.)*

11. Whenever, in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of the Local Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

Officers temporarily succeeding to vacancies in office of District Magistrate.

12. (1) The Local Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any district outside the presidency-towns; and the Local Government may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Subordinate Magistrates.

Local limits of their jurisdiction.

(2) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

13. (1) The Local Government may place any Magistrate of the first or second class in charge of a subdivision, and relieve him of the charge as occasion requires.

Power to put Magistrate in charge of subdivision.

(2) Such Magistrates shall be called Subdivisional Magistrates.

(3) The Local Government may delegate its powers under this section to the District Magistrate.

Delegation of powers to District Magistrate.

14. (1) The Local Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the presidency-towns.

Special Magistrates

(2) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as the Local Government may by general or special order direct.

(3) With the previous sanction of the Governor General in Council, the Local Government may delegate, with such limitations as it thinks fit, to any officer under its control the power conferred by sub-section (1).

(4) No powers shall be conferred under this section on any police-officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police-officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance

(Part II.—*Constitution and Powers of Criminal Courts and Offices.* Chap. II.—*Of the Constitution of Criminal Courts and Offices.* Secs. 15-17.)

by the officer of any other duties imposed upon him by any law for the time being in force.<sup>1</sup>

Benches  
of Magis-  
trates.

15. (1) The Local Government may direct any two or more Magistrates in any place outside the presidency-towns to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only and within such local limits, as the Local Government thinks fit.

Powers ex-  
erciseable by  
Bench in  
absence of  
special direc-  
tion.

(2) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

Power to  
frame rules  
for guidance  
of Benches.

16. The Local Government may, or, subject to the control of the Local Government, the District Magistrate may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects:—

- (a) the classes of cases to be tried;
- (b) the times and places of sitting;
- (c) the constitution of the Bench for conducting trials;
- (d) the mode of settling differences of opinion which may arise between the Magistrates in session.

Subordina-  
tion of Magis-  
trates and  
Benches to  
District Mag-  
istrate;

17. (1) All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches; and

to Subdivi-  
sional Magis-  
trate.

(2) Every Magistrate (other than a Subdivisional Magistrate) and every Bench exercising powers in a subdivision shall also be subordinate to the Subdivisional Magistrate, subject, however, to the general control of the District Magistrate.

<sup>1</sup> Notwithstanding anything contained in s. 14, any police-officer in Assam not below the grade of Assistant District Superintendent may be invested with all or any of the powers conferred or conferrable on a Magistrate of the first, second or third class in respect to non-cognizable cases. See the Assam Police-officers Regulation, 1883 (II of 1883), s. 4, Assam Code, Ed. 1897, p. 285.

As to conferment of magisterial powers on police-officers in Upper Burma, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, s. III; in the Salween and Arakan Districts, see the Burma Laws Act, 1898 (XIII of 1898), s. 9. Burma Code, Ed. 1899.



(Part II.—*Constitution and Powers of Criminal Courts and Offices.* Chap.

II.—*Of the Constitution of Criminal Courts and Offices.* Secs. 18-21.)

(3) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges

Subordination of Assistant Sessions Judges to Sessions Judge.

(4) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge or, if there be no Additional or Assistant Judge, by the District Magistrate, and such Judge or Magistrate shall have jurisdiction to deal with any such application.

(5) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

*D.—Courts of Presidency Magistrates.*

18. (1) The Local Government shall, from time to time, appoint a sufficient number of persons (hereinafter called Presidency Magistrates) to be Magistrates for each of the presidency-towns, and shall appoint one of such persons to be Chief Presidency Magistrate for each such town.

Appointment of Presidency Magistrates.

(2) The powers of a Presidency Magistrate under this Code shall be exercised by the Chief Presidency Magistrate, or by a salaried Presidency Magistrate, or by any other Presidency Magistrate empowered by the Local Government to sit singly, or by any Bench of Presidency Magistrates.

19. Any two or more of such persons may (subject to the rules made by the Chief Presidency Magistrate under the power hereinafter conferred) sit together as a Bench.

Benches.

20. Every Presidency Magistrate shall exercise jurisdiction in all places within the presidency-town for which he is appointed, and within the limits of the port of such town and of any navigable river or channel leading thereto, as such limits are defined under the law<sup>1</sup> for the time being in force for the regulation of ports and port-dues.

Local limits of jurisdiction.

21. (1) Every Chief Presidency Magistrate shall exercise within the local limits of his jurisdiction all the powers conferred on him by this Code or which by any law or rule in force immediately before this Code comes into force are required to be exercised by any Senior or Chief Presidency Magistrate, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Code to regulate—

Chief Presidency Magistrate.

<sup>1</sup> See the Indian Ports Act, 1889 (X of 1889), printed, General Acts, Ed. 1893, Vol. V., p. 297.

(Part II.—*Constitution and Powers of Criminal Courts and Offices.* Chap. II.—*Of the Constitution of Criminal Courts and Offices.* Secs. 22-25.)

- (a) the conduct and distribution of business and the practice in the Courts of the Magistrates of the town ;
- (b) the times and places at which Benches of Magistrates shall sit ;
- (c) the constitution of such Benches ;
- (d) the mode of settling differences of opinion which may arise between Magistrates in session ; and
- (e) any other matter which could be dealt with by a District Magistrate under his general powers of control over the Magistrates subordinate to him.

(2) The Local Government may, for the purposes of this Code, declare what Presidency Magistrates are subordinate to the Chief Presidency Magistrate, and may define the extent of their subordination.

#### *E.—Justices of the Peace.*

Justices of  
the Peace for  
the Mufassal.

22. The Governor General in Council, so far as regards the whole or any part of British India outside the presidency-towns, and every Local Government, so far as regards the territories subject to its administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such European British subjects as he or it thinks fit to be Justices of the Peace within and for the territories mentioned in such notification.

Justices of  
the Peace for  
the presi-  
dency-towns.

23. The Local Government, so far as regards the towns of Calcutta, Madras and Bombay, may, by notification in the official Gazette, appoint to be Justices of the Peace within the limits of the town mentioned in such notification any persons resident within British India and not being the subjects of any foreign State whom the Local Government thinks fit.

Present Jus-  
tices of the  
Peace.

24. Every person now acting as a Justice of the Peace within and for any part of British India other than the said towns, under any commission issued by a High Court, shall be deemed to have been appointed under section 23 by the Governor General in Council to act as a Justice of the Peace for the whole of British India other than the said towns.

(2) Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under section 23 by the Local Government.

*Ex officio*

125. In virtue of their respective offices, the Governor General, Governors,

<sup>1</sup> Cf. the East India Company Act, 1772 (13 Geo. III, Ch. 63), s. 38, printed, Collection of Statutes relating to India. Vol. I, Ed. 1861, p. 69.

(Part II.—*Constitution and Powers of Criminal Courts and Offices.* Chap. II.—*Of the Constitution of Criminal Courts and Offices.* Secs. 26-27. Chap. III.—*Powers of Courts.* Sec. 28.)

Lieutenant-Governors and Chief Commissioners, the Ordinary Members of the Council of the Governor General, the Judges of the High Courts and the Recorder of Rangoon are Justices of the Peace within and for the whole of British India, Sessions Judges and District Magistrates are Justices of the Peace within and for the whole of the territories administered by the Local Government under which they are serving, and the Presidency Magistrates are Justices of the Peace within and for the towns of which they are respectively Magistrates.

Justices of the Peace.

#### *II.—Suspension and Removal.*

26. All Judges of Criminal Courts other than the High Courts established by Royal Charter, and all Magistrates, may be suspended or removed from office by the Local Government :

Suspension and removal of Judges and Magistrates.

Provided that such Judges and Magistrates as now are liable to be suspended or removed from office by the Governor General in Council only shall not be suspended or removed from office by any other authority.

27. The Governor General in Council may suspend or remove from office any Justice of the Peace appointed by him, and the Local Government may suspend or remove from office any Justice of the Peace appointed by it.

Suspension and removal of Justices of the Peace.

### CHAPTER III.

#### POWERS OF COURTS.

##### *A.—Description of Offences cognizable by each Court.*

28. Subject to the other provisions of this Code,<sup>1</sup> any offence under the 1860. Indian Penal Code may be tried—

Offences under Penal Code.

(a) by the High Court, or

(b) by the Court of Session, or

(c) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

##### *Illustration.*

A is committed to the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

<sup>1</sup> e.g. sections 193 and 194.

(Part II.—*Constitution and Powers of Criminal Courts and Offices.* Chap.  
III.—*Powers of Courts.* Secs. 29-32.)

Offences  
under other  
laws.

29. (1) Subject to the provisions of section 447, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(2) When no Court is so mentioned, it may be tried by the High Court or by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

Offences not  
punishable  
with death.

30. In the territories respectively administered by the Lieutenant-Governors of the Punjab and Burma and the Chief Commissioners of Oudh, the Central Provinces, Coorg and Assam, in Sind, and in those parts of the other provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may, notwithstanding anything contained in section 29, invest the District Magistrate or any Magistrate of the first class with power to try as a Magistrate all offences not punishable with death.

*B.—Sentences which may be passed by Courts of various Classes.*

Sentences  
which High  
Courts and  
Sessions  
Judges may  
pass.

31. (1) A High Court may pass any sentence authorised by law.

(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorised by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court.<sup>1</sup>

(3) An Assistant Sessions Judge may pass any sentence authorised by law, except a sentence of death or of transportation for a term exceeding seven years, or of imprisonment for a term exceeding seven years.

Sentences  
which Magis-  
trates may  
pass.

32. (1) The Courts of Magistrates may pass the following sentences, namely:—

- |  |   |   |
|--|---|---|
| (a) Courts of Presidency Magistrates and of Magistrates of the first class : | { | Imprisonment for a term not exceeding two years, including such solitary confinement as is authorized by law ; <sup>2</sup><br>Fine not exceeding one thousand rupees ;<br>Whipping. <sup>3</sup> |
|--|---|---|

<sup>1</sup> See s. 374, *infra*.

<sup>2</sup> See the Indian Penal Code (Act XLV of 1860), ss. 73 and 74, printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>3</sup> As to powers of Magistrates in Upper Burma to pass sentences of whipping, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, s. IV. Printed Burma Code, Ed. 1899.

(Part II.—*Constitution and Powers of Criminal Courts and Offices.* Chap.  
III.—*Power of Courts.* Secs. 33-35.)

- |   |   |   |
|---|---|---|
| (b) Courts of Magistrates of the second class : | { | Imprisonment for a term not exceeding six months, including such solitary confinement as is authorized by law; <sup>1</sup> |
|   | { | Fine not exceeding two hundred rupees ;   |
|   | { | Whipping (if specially empowered). <sup>2</sup>   |
| (c) Courts of Magistrates of the third class :  | { | Imprisonment for a term not exceeding one month ;   |
|   | { | Fine not exceeding fifty rupees.  |

(2) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

(3) No Court of any Magistrate of the second class shall pass a sentence of whipping unless it is specially empowered in this behalf by the Local Government.

33. (1) The Court of any Magistrate may award such term of imprisonment in default of payment of fine as is authorized by law in case of such default :

Power of Magistrates to sentence to imprisonment in default of fine.

Provided that—

- (a) the term is not in excess of the Magistrate's powers under this Code :
- (b) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso as to certain cases.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

34. The Court of a Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or imprisonment for a term exceeding seven years.

Higher powers of certain District Magistrates.

35. (1) When a person is convicted at one trial of two or more distinct offences, the Court may sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict ; such

Sentence in cases of conviction of several offences at one trial.

<sup>1</sup> See foot-note <sup>2</sup> on preceding page.

<sup>2</sup> See the Whipping Act, 1864 (VI of 1864), printed, General Acts, Vol. I, Ed. 1898, p. 429.

(Part II—*Constitution and Powers of Criminal Courts and Offices.* Chap.

III.—*Powers of Courts.* Secs. 36-38.)

punishments, when consisting of imprisonment or transportation, to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided as follows:—

(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

(b) if the case is tried by a Magistrate (other than a Magistrate acting under section 34), the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

(3) For the purpose of appeal, aggregate sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

*Explanation.*—Separable offences which come within the provisions of section 71 of the Indian Penal Code<sup>1</sup> are not distinct offences within the meaning XLV of of this section.

#### *Illustration.*

A breaks into a house with intent to commit theft and steals property therein. A has not committed distinct offences.

#### *C.—Ordinary and additional Powers.*

Ordinary  
powers of  
Magistrates.

<sup>2</sup> 36. All District Magistrates, Subdivisional Magistrates and Magistrates of the first, second and third classes, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their “ordinary powers.”

Additional  
powers  
conferable  
on Magis-  
trates.

<sup>2</sup> 37. In addition to his ordinary powers, any Subdivisional Magistrate or any Magistrate of the first, second or third class may be invested by the Local Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Local Government or the District Magistrate.

Control of  
District  
Magistrate's  
investing  
power.

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Local Government.

<sup>1</sup> Printed General Acts, Ed. 1898, Vol. I, p. 240.

<sup>2</sup> As to powers of Magistrates in Upper Burma, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, s. V. Burma Code, Ed. 1899,

(Part II.—*Constitution and Powers of Criminal Courts and Offices.* Chap.

III.—*Powers of Courts.* Secs. 39-41. Part III.—*General Provisions.*

Chap. IV.—*Of Aid and Information to the Magistrates, the Police and Persons making Arrests.* Sec. 42.)

*D.—Conferment, Continuance and Cancellation of Powers.*

39. (1) In conferring powers under this Code the Local Government may, by order, empower persons specially by name or in virtue of their office, or classes of officials generally by their official titles. Mode of conferring powers.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is transferred to an equal or higher office of the same nature, within a like local area under the same Local Government, he shall, unless the Local Government otherwise directs, or has otherwise directed, continue to exercise the same powers in the local area to which he is so transferred. Continuance of powers of officers transferred.

41. (1) The Local Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it. Powers may be cancelled.

(2) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

## PART III.

### GENERAL PROVISIONS.

#### CHAPTER IV.

#### OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

42. Every person is bound to assist a Magistrate or police-officer reasonably demanding his aid, whether within or without the presidency-towns, — Public when to assist Magistrates and police.

(a) in the taking or preventing the escape of any other person whom such Magistrate or police-officer is authorised to arrest;

(b) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

(Part III.—General Provisions. Chap. IV.—Of Aid and Information to the Magistrates, the Police and Persons making Arrests. Secs. 43-45.)

Aid to person, other than police-officer, executing warrant.

43. When a warrant is directed to a person other than a police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences.

44. (1) Every person, whether within or without the presidency-towns, aware of the commission of, or of the intention of any other person to commit, any offence punishable under any of the following sections of the Indian Penal Code<sup>1</sup> (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention.

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(2) For the purposes of this section the term "offence" includes any act committed at any place out of British India which would constitute an offence if committed in British India.

Village-headmen, accountants, landholders and others bound to report certain matters.

45. (1) Every village-headman, village-accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

- (a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;
- (b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;
- (c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147 or 148 of the Indian Penal Code;<sup>2</sup>

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<sup>1</sup> Printed, General Acts, Ed. 1898, Vol. I, p. 240.

<sup>2</sup> For section in force in Upper Burma, instead of this section, see s. 4 of the Upper Burma Village Regulation, 1887 (XIV of 1887). Printed, Burma Code, Ed. 1899.

As to the section in force in those parts of Lower Burma to which the Lower Burma Village Act, 1889 (III of 1889), is extended, see s. 5 of that Act, printed, Burma Code, Ed. 1899, and s. 3, *supra*.

<sup>3</sup> Printed General Acts, Ed. 1898, Vol. I, p. 240.



(Part III.—General Provisions. Chap. V.—Of Arrest, Escape and Retaking. Sec. 46.)

- (d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances ;
- (e) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code,<sup>1</sup> namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ;
- (f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

(2) In this section—

- (i) “village” includes village lands ; and
- (ii) the expression “proclaimed offender” includes any person proclaimed as an offender by any Court or authority established or continued by the Governor General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code,<sup>1</sup> namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

(3) Subject to rules in this behalf to be made by the Local Government, the District Magistrate may from time to time appoint one or more persons to be village-headmen for the purposes of this section in any village for which there is no such headman appointed under any other law.

Appointment of village-headmen by District Magistrate in certain cases for purposes of this section.

## CHAPTER V.

### OF ARREST, ESCAPE AND RETAKING.

#### A.—Arrest generally.

46. (1) In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Arrest how made.

(2) If such person forcibly resists the endeavour to arrest him, or attempts

Resisting

<sup>1</sup> Printed, General Acts, Ed. 1898, Vol I, p. 240.

(Part III.—General Provisions. Chap. V.—Of Arrest, Escape and  
Relaxing. Secs. 47-51.)

endeavour to  
arrest.

to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death, or with transportation for life.<sup>1</sup>

Search of  
place entered  
by person  
sought to be  
arrested

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Procedure  
where ingress  
not obtain-  
able.

48. If ingress to such place cannot be obtained under section 47, it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and, in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance :

Breaking  
open zamānā.

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Power to  
break open  
doors and  
windows for  
purposes of  
liberation.

49. Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unneces-  
sary re-  
straint.

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.<sup>2</sup>

Search of

51. Whenever a person is arrested by a police-officer under a warrant which

<sup>1</sup> As to addition with which s. 46 is to be read in places in which the Punjab Frontier Crimes Regulation, 1887 (IV of 1887), is in force, see s. 37 (2) of that Regulation, printed, Punjab Code, Ed. 1888, p. 401, and s. 3 *supra*.

<sup>2</sup> For penalty for unwarrantable personal violence by a police-officer to a person in his custody see s. 29 of the Police Act, 1861 (V of 1861), printed, General Acts, Vol. I, Ed. 1898, p. 390.

(Part III.—General Provisions. Chap. V.—Of Arrest, Escape and Retaking. Secs. 52-54.)

does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

arrested  
persons

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.<sup>1</sup>

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

Mode of  
searching  
women.

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

Power to  
seize offensive  
weapons.

*B.—Arrest without Warrant.*

54. (1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest—

When police  
may arrest  
without  
warrant.

*first*—any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned;

*secondly*—any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

*thirdly*—any person who has been proclaimed as an offender either under this Code or by order of the Local Government;

*fourthly*—any person in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to such thing;

*fifthly*—any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

<sup>1</sup> As to disposal of such property, see s. 523, *infra*.

(Part III.—General Provisions. Chap. V.—Of Arrest, Escape and Retaking. Sec. 55.)

*sixthly*—any person reasonably suspected of being a deserter from Her Majesty's Army or Navy or of belonging to Her Majesty's Indian Marine Service and being illegally absent from that service;

*seventhly*—any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of British India, which, if committed in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881,<sup>1</sup> or otherwise, liable to be apprehended or detained in custody in British India; and 44 & 45 V.  
c. 62.

*eighthly*—any released convict committing a breach of any rule made under section 565, sub-section (3).

(2) This section applies also to the police in the towns of Calcutta and Bombay.

Arrest of  
vagabonds,  
habitual  
robbers, etc.

<sup>3</sup> 55. (1) Any officer in charge of a police-station may, in like manner arrest or cause to be arrested—

(a) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence; or

(b) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(c) any person who is by repute an habitual robber, house-breaker or thief.

<sup>1</sup> Printed, Collection of Statutes relating to India, Ed. 1881. Supplement, p. 12

<sup>2</sup> For some other cases in which the police may arrest without warrant, see pp. 135 and 136 of Wigley's Index of Indian Statutes, Ed. 1897, and the following Acts:—

the Indian Emigration Act, 1883 (XXI of 1883), s. 82, printed, General Acts, Vol. IV, Ed. 1898, p. 638;

the Rangoon Tramways Act, 1883 (XXII of 1883), s. 19, printed, Burma Code, Ed. 1899; the Explosives Act, 1884 (IV of 1884), s. 13, printed, General Acts, Vol. IV, Ed. 1898, p. 703;

the Punjab Municipalities Act, 1891 (XXI of 1891), ss. 81 to 83;

the Burma Gaming Act, 1884 (XVI of 1884), s. 7, printed, Burma Code, Ed. 1899;

the Burma Municipal Act, 1898 (Burma Act III of 1898), s. 194, printed *ibid*;

the Upper Burma Forest Regulation, 1898 (V of 1898), s. 63, printed *ibid*.

<sup>3</sup> In Upper Burma, any police-officer may exercise the powers conferred by this section on a police-officer in charge of a police-station, see Schedule (s. VI) to the Upper Burma Criminal Justice Regulation, 1892 (V of 1892). Printed Burma Code, Ed. 1899.

(Part III.—General Provisions. Chap. V.—Of Arrest, Escape and Retaking. Secs. 56-59.)

or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

(2) This section applies also to the police in the towns of Calcutta and Bombay.

56. (1) When any officer in charge of a police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made.

Procedure when police-officer deposes subordinate to arrest without warrant.

(2) This section applies also to the police in the towns of Calcutta and Bombay.

57. (1) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

Refusal to give name and residence.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorised to arrest under this Chapter, pursue such person into any place in British India.

Pursuit of offenders into other jurisdictions.

59. (1) Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender ;

Arrest by private persons.

and shall, without unnecessary delay, make over any person so arrested to

Procedure on such arrest.

<sup>1</sup> As to power of detention by officer in charge of a police-station in Upper Burma, see Upper Burma Criminal Justice Regulation, 1892 (V of 1892), printed, Burma Code, Ed. 1899.

(Part III.—General Provisions. Chap. V.—Of Arrest, Escape and Retaking. Secs. 60-66.)

a police-officer, or, in the absence of a police-officer, take such person to the nearest police-station.

(2) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

Person arrested to be taken before Magistrate or officer in charge of police-station.

60. A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station.

Person arrested not to be detained more than twenty-four hours.

<sup>1</sup> 61. No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

Police to report apprehensions.

62. Officers in charge of police-stations shall report to the District Magistrate, or, if he so directs, to the Subdivisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

Discharge of person apprehended.

63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

Offence committed in Magistrate's presence.

64. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail,<sup>2</sup> commit the offender to custody.

Arrest by or in presence of Magistrate.

65. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Power, on

66. If a person in lawful custody escapes or is rescued, the person from

<sup>1</sup> As to power of detention by officer in charge of a police-station in Upper Burma, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), printed, Burma Code, Ed. 1899.

<sup>2</sup> See Ch. XXXIX, *infra*.

(Part III.—General Provisions. Chap. V.—Of Arrest, Escape and Retaking. Sec. 67. Chap VI.—Of Processes to compel Appearance. Secs. 68-70.)

whose custody he escaped or was rescued, may immediately pursue and arrest him in any place in British India.

escape, to pursue and retake.

67. The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest.

Provisions of sections 47, 48 and 49 to apply to arrests under section 66.

## CHAPTER VI.

### OF PROCESSES TO COMPEL APPEARANCE.

#### A.—Summons.

68. (1) Every summons<sup>1</sup> issued by a Court under this Code shall be in writing, in duplicate, signed and sealed by the presiding officer of such Court, or by such other officer as the High Court may, from time to time, by rule, direct.

Form of summons.

(2) Such summons shall be served by a police-officer, or, subject to such rules as the Local Government may prescribe in this behalf, by an officer of the Court issuing it or other public servant.

Summons by whom served.

(3) This section applies also to the police in the towns of Calcutta and Bombay.

69. (1) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Summons how served.

(2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Signature of receipt for summons.

(3) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in British India. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or, in a presidency-town, with his servant residing with him; and the person with whom the summons is so left,

Service when person summoned cannot be found.

<sup>1</sup> For forms, see Sch. V, Forms I and XXXI, *infra*.

(Part III.—General Provisions. Chap. II.—Of Processes to compel Appearance. Secs. 71-75.)

shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when service cannot be effected as before provided.

71. If service in the manner mentioned in sections 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Service on servant of Government or of Railway Company.

72. (1) Where the person summoned is in the active service of the Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endorsement required by that section.

(2) Such signature shall be evidence of due service.

Service of summons outside local limits.

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases, and when serving officer not present.

74. (1) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

*B.—Warrant of Arrest.<sup>1</sup>*

Form of warrant of arrest.

75. (1) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or, in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

<sup>1</sup> These provisions apply to warrants issued under s. 10 of the Upper Burma Ruby Regulation, 1887 (XII of 1887), sub sec. (2) of that section, printed, Burma Code, Ed. 1899.



(Part III.—General Provisions Chap. VI.—Of Processes to compel Appearance. Secs. 76-79.)

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed. Continuance of warrant of arrest.

76. (1) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed, shall take such security and shall release such person from custody. Court may direct security to be taken.

(2) The endorsement <sup>1</sup> shall state—

(a) the number of sureties;

(b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and

(c) the time at which he is to attend before the Court.

(3) Whenever security is taken under this section, the officer to whom the warrant is directed, shall forward the bond to the Court. Recognizance to be forwarded.

77. (1) A warrant of arrest shall ordinarily be directed to one or more police-officers, and, when issued by a Presidency Magistrate, shall always be so directed; but any other Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same. Warrants to whom directed.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them. Warrant to several persons.

78. (1) A District Magistrate or Subdivisional Magistrate may direct a warrant to any landholder, farmer or manager of land within his district or subdivision for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit. Warrant may be directed to landholders, etc.

(2) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(3) When the person against whom such warrant is issued, is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

79. A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed. Warrant directed to police-officer.

<sup>1</sup> For forms, see Sch. V, Form II.

(Part III.—General Provisions. Chap. VI.—Of Processes to compel Appearance. Secs. 80-85.)

Notification of substance of warrant.

80. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

Person arrested to be brought before Court without delay.

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

Where warrant may be executed.

82. A warrant of arrest may be executed at any place in British India.

Warrant for-warded for execution outside jurisdiction.

83. (1) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction it is to be executed.

(2) The Magistrate or District Superintendent or Commissioner to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

Warrant directed to police-officer for execution outside jurisdiction.

84. (1) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

(2) Such Magistrate or police-officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the police-officer to whom it is directed, may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued it.

(4) This section applies also to the police in the towns of Calcutta and Bombay.

Procedure on arrest of

85. When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the

(Part III.—General Provisions. Chap. VI.—Of Processes to compel Appearance. Secs. 86-87.)

warrant is within twenty miles of the place of arrest or is nearer than the Magistrate or District Superintendent of Police or the Commissioner of Police in a presidency-town within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 76, be taken before such Magistrate or Commissioner or District Superintendent.

person  
against  
whom war-  
rant issued.

86. (1) Such Magistrate or District Superintendent or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court :

Procedure by  
Magistrate  
before whom  
person arrest-  
ed is brought.

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, District Superintendent or Commissioner, or a direction has been endorsed under section 76 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, District Superintendent or Commissioner shall take such bail or security,<sup>1</sup> as the case may be, and forward the bond to the Court which issued the warrant.

(2) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 76

C.—Proclamation and Attachment.

87. (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it, has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation<sup>2</sup> requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

Proclamation  
for person  
absconding.

(2) The proclamation shall be published as follows :—

- (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides ;
- (b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village ; and
- (c) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be

<sup>1</sup> See Sch. V, Form III, *infra*.

<sup>2</sup> See Sch. V, Forms IV and V, *infra*.

(Part III.—General Provisions. Chap. VI.—Of Processes to compel Appearance. Sec. 88.)

conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

Attachment  
of property of  
person  
absconding.

88. (1) The Court issuing a proclamation under section 87 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

(2) Such order shall authorise the attachment of any property belonging to such person within the district in which it is made; and it shall authorise the attachment of any property belonging to such person without such district when endorsed by the District Magistrate or Chief Presidency Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other moveable property, the attachment under this section shall be made—

- (a) by seizure; or
- (b) by the appointment of a receiver; or
- (c) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or
- (d) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Collector of the district in which the land is situate, and in all other cases—

- (e) by taking possession; or
- (f) by the appointment of a receiver; or
- (g) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or
- (h) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under Chapter XXXVI of the Code of Civil Procedure.<sup>1</sup>

(7) If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of

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<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

(Part III.—General Provisions. Chap. VI.—Of Processes to compel Appearance Secs. 89-92.)

Government ; but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

89. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government, under sub-section (7) of section 88, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

Restoration  
of attached  
property.

*D.—Other Rules regarding Processes.*

90. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing, a warrant<sup>1</sup> for his arrest—

Issue of  
warrant in  
lieu of, or in  
addition to,  
summons.

(a) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons ; or

(b) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

91. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court.

Power to take  
bond for  
appearance.

92. When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Arrest on  
breach of  
bond for ap-  
pearance.

<sup>1</sup> See Sch. V, Form VII, *infra*.

(Part III.—General Provisions. Chap. VI.—Of Processes to compel Appearance. Sec. 93. Chap. VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined. Secs. 94-95.)

Provisions of this Chapter generally applicable to summonses and warrants of arrest

93. The provisions contained in this Chapter relating to a summons and warrant, and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

## CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

### A.—Summons to produce.

Summons to produce document or other thing.

94. (1) Whenever any Court, or, in any place beyond the limits of the towns of Calcutta and Bombay, any officer in charge of a police-station, considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition, if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872,<sup>1</sup> sections 123 and 124, or to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the Postal or Telegraph authorities. : of 1872.

Procedure as to letters and telegrams.

95. (1) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(2) If any such document, parcel or thing is, in the opinion of any other Magistrate, or of any Commissioner of Police, or District Superintendent of

(Part III—General Provisions. Chap. VII.—Of Processes to compel the Production of Documents and other Movable Property, and for the Discovery of Persons wrongfully confined. Secs. 96-98.)

Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

*B—Search-warrants*<sup>1</sup>

96. (1) Where any Court has reason to believe that a person to whom a summons or order under section 94 or a requisition under section 95, subsection (1), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition,

When search-warrant may be issued.

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and the provisions hereinafter contained.

(2) Nothing herein contained shall authorize any Magistrate other than a District Magistrate or Chief Presidency Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the Postal or Telegraph authorities.

97. The Court may, if it thinks fit, specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Power to restrict warrant.

98. (1) If a District Magistrate, Subdivisional Magistrate, Presidency Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property,

Search of house suspected to contain stolen property, forged documents, etc.

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

<sup>1</sup> These provisions apply to searches under s. 9 (1) and (2), of the Upper Burma Ruby Regulation, 1887 (XII of 1887), see s. 9 (3) of that Regulation, printed, Burma Code, Ed. 1899.

For power to invest any Forest-officer with power to issue such warrants, see Upper Burma Forest Regulation, 1898 (V of 1898), s. 71 (c), printed, *ibid*.

(Part III.—General Provisions. Chap. VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined. Sec. 98.)

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

he may by his warrant<sup>1</sup> authorise any police-officer above the rank of a constable—

- (a) to enter, with such assistance as may be required, such place, and
- (b) to search the same in manner specified in the warrant, and
- (c) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials as aforesaid, and
- (d) to convey such property, documents, seals, stamps, coins, instruments, or materials before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and
- (e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins, instruments or materials, knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging.

(2) The provisions of this section with respect to—

- (a) counterfeit coin,
- (b) coin suspected to be counterfeit, and
- (c) instruments or materials for counterfeiting coin,

shall, so far as they can be made applicable, apply, respectively, to—

- (a) pieces of metal made in contravention of the Metal Tokens Act, 1889,<sup>2</sup> I of 1889.  
or brought into British India in contravention of any notification for the time being in force under section 19 of the Sea Customs Act, 1878,<sup>3</sup>

VIII of 1878.

- (b) pieces of metal suspected to have been so made or to have been so

<sup>1</sup> See Sch. V, Form IX, *infra*.

<sup>2</sup> Printed, General Acts, Vol. V, Ed. 1898, p. 258.

<sup>3</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 168.



(Part III.—General Provisions. Chap. VII.—Of Processes to compel the Production of Documents and other Moveable Property, and for the Discovery of Persons wrongfully confined. Secs. 99-102.)

brought into British India or to be intended to be issued in contravention of the former of those Acts, and

(c) instruments or materials for making pieces of metal in contravention of that Act.

99. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorising them to be taken to such Court.

Disposal of things found in search beyond jurisdiction.

*C.—Discovery of Persons wrongfully confined.*

100. If any Presidency Magistrate, Magistrate of the first class or Sub-divisional Magistrate has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

Search for persons wrongfully confined.

*D.—General Provisions relating to Searches.*

101. The provisions of sections 43, 75, 77, 79, 82, 83 and 84, shall, so far as may be, apply to all search-warrants issued under section 95, section 98 or section 100.

Direction, etc., of search-warrants.

102. (1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Persons in charge of closed place to allow search.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 48.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such

(Part III.—General Provisions. Chap. VII.—Of Processes to compel the Production of Documents and other Movable Property, and for the Discovery of Persons wrongfully confined. Secs. 103-105.)

person may be searched. If such person is a woman, the directions of section 52 shall be observed.

Search to be made in presence of witnesses.

103. (1) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

Occupant of place searched may attend.

(3) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

(4) When any person is searched under section 102, sub-section (2), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

#### *B.—Miscellaneous.*

Power to impound document, etc., produced.  
Magistrate may direct search in his presence.

104. Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

105. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

(Part IV.—Prevention of Offences. Chap. VIII.—Of Security for keeping the Peace and for Good Behaviour. Secs. 106-107.)

## PART IV.

### PREVENTION OF OFFENCES.

#### CHAPTER VIII.<sup>1</sup>

##### OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

###### *A.—Security for keeping the Peace on Conviction.*

106. (1) Whenever any person accused of rioting, assault or other offence involving a breach of the peace, or of abetting the same, or of assembling armed men or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court, a Court of Session or the Court of a Presidency Magistrate, a District Magistrate, a Subdivisional Magistrate or a Magistrate of the first class,

Security for keeping the peace on conviction.

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond<sup>2</sup> for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(3) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

###### *B.—Security for keeping the Peace in other Cases and Security for Good Behaviour.*

107. (1) Whenever a Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate may, in manner

Security for keeping the peace in other cases.

<sup>1</sup> Ss. 20 to 26 of the Sind Frontier Regulation, 1892 (III of 1892), printed, Bombay Code, Ed. 1894, Vol. I, p. 283, are to be read with and construed as part of this Chapter, see s. 27 of that Regulation, and s. 3, *supra*.

<sup>2</sup> See Sch. V, Form X, *infra*.

(Part IV.—Prevention of Offences. Chap. VIII.—Of Security for Keeping the Peace and for Good Behaviour. Sec. 108.)

hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

(2) Proceedings shall not be taken under this section unless either the person informed against, or the place where the breach of the peace or disturbance is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate, other than a Chief Presidency or District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

Procedure of  
Magistrate  
not empowered  
to act  
under sub-  
section (1).

(3) When any Magistrate not empowered to proceed under sub-section (1) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(4) A Magistrate before whom a person is sent under this section, may in his discretion detain such person in custody until the completion of the inquiry hereinafter prescribed.

Security for  
good beha-  
viour from  
persons  
disseminat-  
ing seditious  
matter.

108. Whenever a Chief Presidency or District Magistrate, or a Presidency Magistrate or Magistrate of the first class specially empowered by the Local Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing, disseminates or attempts to disseminate, or in anywise abets the dissemination of,—

- (a) any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code,<sup>1</sup> XLV of 1860,<sup>1</sup> or
  - (b) any matter the publication of which is punishable under section 153A of the Indian Penal Code,<sup>1</sup> or
  - (c) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code,<sup>1</sup>
- such Magistrate may (in manner hereinafter provided) require such person

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part IV.—Prevention of Offences Chap. VIII.—Of Security for keeping the Peace and for Good Behaviour. Secs. 109-110.)

to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, or printed or published in conformity with, the rules laid down in the Press and Registration of Books Act, 1867,<sup>1</sup> except by the order or under the authority of the Governor General in Council or the Local Government or some officer empowered by the Governor General in Council in this behalf.

**109.** Whenever a Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class receives information—

Security for good behaviour from vagrants and suspected persons.

- (a) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or
- (b) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

**110.** Whenever a Presidency Magistrate, District Magistrate, or Subdivisional Magistrate or a Magistrate of the first class specially empowered in this behalf by the Local Government receives information that any person within the local limits of his jurisdiction—

Security for good behaviour from habitual offenders.

- (a) is by habit a robber, house-breaker or thief, or
- (b) is by habit a receiver of stolen property knowing the same to have been stolen, or
- (c) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or
- (d) habitually commits mischief, extortion or cheating or counterfeiting coin, currency notes or stamps, or attempts so to do, or
- (e) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or
- (f) is so desperate and dangerous as to render his being at large without security hazardous to the community,

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 634.

(Part IV.—Prevention of Offences. Chap. VIII.—Of Security for keeping the Peace and for Good Behaviour. Secs. 111-115.)

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.<sup>1</sup>

Proviso as to  
European  
vagrants.

111. The provisions of sections 109 and 110 do not apply to European British subjects in cases where they may be dealt with under the European Vagrancy Act, 1874.<sup>2</sup>

IX of 1874.

Order to be  
made.

<sup>3, 4</sup> 112. When a Magistrate acting under section 107, section 108, section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

Procedure in  
respect of  
person pre-  
sent in  
Court.  
Summons or  
warrant in  
case of per-  
son not so  
present.

<sup>3, 4</sup> 113. If the person in respect of whom such order is made is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him

<sup>4</sup> 114. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is, to bring him before the Court :

Provided that whenever it appears to such Magistrate, upon the report of a police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

Copy of  
order under  
section 112  
to accompany  
summons or  
warrant.

<sup>3, 4</sup> 115. Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under, the same.

<sup>1</sup> In Upper Burma information as to any person who earns his livelihood by carrying on or assisting in carrying on the game of "ti" or any other game or pretended game of a like nature, may be dealt with as information of the description mentioned in this section, see s. 8 of the Burma Gaming Act, 1884 (XVI of 1884), printed, Burma Code, Ed. 1899.

<sup>2</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 453.

<sup>3</sup> Ss. 112 and 113, 115 and 117 do not apply to an enquiry under s. 41 of the Punjab Frontier Crimes Regulation, 1887 (IV of 1887), printed, Punjab Code, Ed. 1888, p. 403.

<sup>4</sup> Ss. 112 to 125 apply to all cases requiring security for good behaviour under the Upper Burma Frontier Crossing and Disturbed Districts Regulation, 1887 (IX of 1887) see s. 5 (2), printed, Burma Code, Ed. 1899.

(Part IV.—Prevention of Offences. Chap. VIII.—Of Security for keeping the Peace and for Good Behaviour. Secs. 116-119.)

<sup>1</sup> 116. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

Power to dispense with personal attendance.

<sup>1, 2</sup> 117. (1) When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant issued under section 111, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

Inquiry as to truth of information.

(2) Such inquiry shall be made, as nearly as may be practicable where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials and recording evidence in summons-cases; and, where the order requires security for good behaviour, in the manner hereinafter prescribed for conducting trials and recording evidence in warrant-cases, except that no charge need be framed.

(3) For the purposes of this section the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

(4) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

<sup>1</sup> 118. (1) If, upon such enquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Order to give security.

Provided—

*first*, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112:

*secondly*, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive:

*thirdly*, that, when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

<sup>1</sup> 119. If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be,

Discharge of person informed against.

<sup>1</sup> See the fourth footnote on preceding page.

<sup>2</sup> See the third and fourth footnote on preceding page.

(Part IV.—Prevention of Offences. Chap. III.—Of Security for keeping the Peace and for Good Behaviour. Secs. 120-123.)

that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and, if such person is in custody, only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

*C.—Proceedings in all cases subsequent to Order to furnish Security.*

Commence-  
ment of pe-  
riod for which  
security is  
required.

<sup>1</sup>120. (1) If any person in respect of whom an order requiring security is made under section 106 or section 118, is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

(2) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

Contents of  
bond.

<sup>1</sup>121. The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Power to re-  
ject sureties.

<sup>1</sup>122. A Magistrate may refuse to accept any surety offered under this Chapter, on the ground that, for reasons to be recorded by the Magistrate, such surety is an unfit person.

Imprison-  
ment in de-  
fault of se-  
curity.

<sup>1</sup>123. (1) If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which the period for which such security is to be given, commences, he shall, except in the case next hereinafter mentioned, be committed to prison,<sup>2</sup> or, if he is already in prison, be detained in prison<sup>3</sup> until such period expires or until within such period he gives the security<sup>4</sup> to the Court or Magistrate who made the order requiring it.

Proceedings  
when to be  
laid before  
High Court  
or Court of  
Session.

(2) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge or, if such Magistrate is a Presidency Magistrate, pending the orders of the High Court; and the proceedings shall be laid, as soon as conveniently may be, before such Court.

<sup>1</sup> See fourth footnote on p. 418, *supra*.

<sup>2</sup> See Sch. V, Forms XIII and XIV, *infra*.

<sup>3</sup> As to punishment for escaping or attempting to escape, see s. 225 of the Indian Penal Code (Act XLV of 1860), printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>4</sup> See Sch. V, Form XV, *infra*.



(Part IV.—Prevention of Offences. Chap. VIII.—Of Security for keeping the Peace and for Good Behaviour. Secs. 124-125.)

(5) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit :

Provided that the period (if any) for which any person is imprisoned for failure to give security, shall not exceed three years.

(4) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

(5) Imprisonment for failure to give security for keeping the peace shall be simple. Kind of imprisonment.

(6) Imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs.

<sup>1</sup>124. (1) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter, whether by the order of such Magistrate or that of his predecessor in office, or of some subordinate Magistrate, may be released without hazard to the community or to any other person, he may order such person to be discharged. Power to release persons imprisoned for failing to give security.

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the Chief Presidency or District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) Whenever the District Magistrate or a Chief Presidency Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter as ordered by the Court of Session or High Court may be released without hazard to the community, such Magistrate shall make an immediate report of the case for the orders of the Court of Session or High Court, as the case may be, and such Court may, if it thinks fit, order such person to be discharged.<sup>2</sup>

<sup>1</sup>125. The Chief Presidency or District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by order of any Court in his district not superior to his Court. Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.

<sup>1</sup> See fourth footnote on p. 418, *supra*.

<sup>2</sup> See Sch. V, Form XV, *infra*.

(Part IV.—Prevention of Offences. Chap. VIII.—Of Security for keeping the Peace and for Good Behaviour. Sec. 126. Chap. IX.—Unlawful Assemblies. Secs. 127-129)

Discharge of  
sureties.

<sup>1</sup> 126. (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

(2) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

(3) When such person appears or is brought before the Magistrate, such Magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.

## CHAPTER IX.

### UNLAWFUL ASSEMBLIES.

Assembly to  
disperse on  
command of  
Magistrate  
or police-  
officer.

127. (1) Any Magistrate or officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(2) This section applies also to the police in the towns of Calcutta and Bombay.

Use of civil  
force to dis-  
perse.

128. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police-station, whether within or without the presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's Army or a volunteer enrolled under the Indian Volunteers Act, 1869,<sup>2</sup> and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law. XX of 186

Use of mili-  
tary force.

129. If any such assembly cannot be otherwise dispersed, and if it is

<sup>1</sup> See the fourth footnote on p. 418, *supra*.

<sup>2</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 112.

(Part IV.—Prevention of Offences. Chap. IX.—Unlawful Assemblies.  
Secs. 130-132.)

necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present, may cause it to be dispersed by military force.

**130.** (1) When a Magistrate determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869,<sup>1</sup> to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

Duty of officer commanding troops required by Magistrate to disperse assembly.

(2) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

**131.** When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's Army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

Power of commissioned military officer to disperse assembly.

**132.** No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any Criminal Court, except with the sanction of the Governor General in Council; and—

Protection against prosecution for acts done under this Chapter.

(a) no Magistrate or police-officer acting under this Chapter in good faith,<sup>2</sup>

(b) no officer acting under section 131 in good faith,

(c) no person doing any act in good faith, in compliance with a requisition under section 128 or section 130, and

(d) no inferior officer, or soldier, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

<sup>1</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 112.

<sup>2</sup> For definition of "good faith," see the Indian Penal Code (Act XLV of 1860), ss. 52 and 76, printed, General Acts, Vol. I, Ed. 1898, p. 240, and s. 3 (20) of the General Clauses Act, 1897 (X of 1897), printed, *supra*, p. 316.

## CHAPTER X.

## PUBLIC NUISANCES.

Conditional  
order for  
removal of  
nuisance.

1<sup>2</sup> 133. (1) Whenever a District Magistrate, a Sub-divisional Magistrate or, when empowered by the Local Government in this behalf, a Magistrate of the first class, considers, on receiving a police-report or other information, and on taking such evidence (if any) as he thinks fit,

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that any trade or occupation, or the keeping of any goods or merchandise, by reason of its being injurious to the health or physical comfort of the community, should be suppressed or removed or prohibited, or

that the construction of any building, or the disposal of any substance as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence its removal, repair or support is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such a manner as to prevent danger arising to the public,

such Magistrate may make a conditional order<sup>3</sup> requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, substance, tank, well or excavation, within a time to be fixed in the order,

<sup>1</sup> Ss. 133 to 141 have been specially extended to the City of Madras, *see* s. 29 of the City of Madras Municipal Act Amendment Act, 1881 (Mad. Act VII of 1881), printed, Madras Code, Ed. 1888, p. 699, and s. 3 (1) *supra*. And as to the meaning of "District Magistrate" in these sections when applied as so extended, *see* s. 3 (m) of the City of Madras Municipal Act, 1884 (Mad. Act I of 1884), reprinted by the Government of Fort St. George as amended by Acts VII of 1884 and II of 1892.

<sup>2</sup> The powers of a District Magistrate under the section may be conferred on Municipal Boards in the North-Western Provinces and Oudh, and in Municipal Committees in the Central Provinces, and thereupon the provisions of ss. 133 to 142 both inclusive with a modification in s. 133 apply to all proceedings taken in exercise of the powers so conferred, *see* s. 57 of the North-Western Provinces and Oudh Municipalities Act, 1883 (XV of 1883), and the Central Provinces Municipal Act, 1889 (XVIII of 1889), s. 86, respectively. For the former, *see* North-Western Provinces and Oudh Code, Ed. 1892, p. 604, and for the latter, the Central Provinces Code, Ed. 1891, p. 314.

<sup>3</sup> *See* Sch. V, Form XVI, *infra*.

(Part IV.—Prevention of Offences. Chap. X.—Public Nuisances.  
Secs. 134-137.)

to remove such obstruction or nuisance; or  
to suppress or remove such trade or occupation; or  
to remove such goods or merchandise; or  
to prevent or stop the construction of such building; or  
to remove, repair or support it; or  
to alter the disposal of such substance; or  
to fence such tank, well or excavation, as the case may be; or  
to appear before himself or some other Magistrate of the first or second class, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner hereinafter provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

*Explanation.*—A “public place” includes also property belonging to the State, camping-grounds and grounds left unoccupied for sanitary and recreative purposes.

<sup>1</sup> 134. (1) The order shall, if practicable, be served on the person against whom it is made, in manner herein provided for service of a summons.

Service or  
notification  
of order.

(2) If such order cannot be so served, it shall be notified by proclamation published in such manner as the Local Government may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

<sup>1</sup> 135. The person against whom such order is made shall—

(a) perform, within the time specified in the order, the act directed thereby; or

(b) appear in accordance with such order and either show cause against the same, or apply to the Magistrate by whom it was made to appoint a jury to try whether the same is reasonable and proper.

Person to  
whom order  
is addressed  
to obey or  
show cause  
or claim jury.

<sup>1</sup> 136. If such person does not perform such act or appear and show cause or apply for the appointment of a jury as required by section 135, he shall be liable to the penalty prescribed in that behalf in section 188 of the Indian Penal Code,<sup>2</sup> and the order shall be made absolute.

Consequence  
of his failing  
to do so.

<sup>1</sup> 137. (1) If he appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

Procedure  
where he  
appears to  
show  
cause.

(2) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

<sup>1</sup> See first and second footnotes on preceding page.

<sup>2</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part IV.—Prevention of Offences. Chap. V.—Public Nuisances.  
Secs. 138-140.)

(3) If the Magistrate is not so satisfied, the order shall be made absolute.

Procedure  
where he  
claims jury

<sup>1</sup> 138. (1) On receiving an application under section 135 to appoint a jury, the Magistrate shall—

- (a) forthwith appoint a jury <sup>2</sup> consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant;
- (b) summon such foreman and members to attend at such place and time as the Magistrate thinks fit; and
- (c) fix a time within which they are to return their verdict.

(2) The time so fixed may, for good cause shown, be extended by the Magistrate.

Procedure  
where jury  
finds Magis-  
trate's order  
to be reason-  
able.

<sup>1</sup> 139. (1) If the jury or a majority of the jurors find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

(2) In other cases, no further proceedings shall be taken under this Chapter.

Procedure on  
order being  
made abso-  
lute.

<sup>1</sup> 140. (1) When an order has been made absolute under section 136, section 137 or section 139, the Magistrate shall give notice <sup>2</sup> of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 183 of the Indian Penal Code.<sup>4</sup>

Consequences  
of disobe-  
dience to  
order.

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other moveable property of such person within or without the local limits of such Magistrate's jurisdiction. If such other property is without such limits, the order shall authorise its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

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<sup>1</sup> See first and second footnotes on p. 424 *Supra*.

<sup>2</sup> See Sch. V, Form XVII, *infra*.

<sup>3</sup> See Sch. V, Form XVIII, *infra*.

<sup>4</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part IV.—Prevention of Offences. Chap. X.—Public Nuisances. Secs. 141-143. Chap. XI.—Temporary Orders in Urgent Cases of Nuisance or apprehended Danger. Sec. 144.)

(3) No suit shall lie in respect of anything done in good faith<sup>1</sup> under this section.

<sup>2</sup> 141. If the applicant by neglect or otherwise prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 140

Procedure on failure to appoint jury or omission to return verdict.

<sup>3</sup> 142. (1) If a Magistrate making an order under section 133 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may, whether a jury is to be, or has been, appointed or not, issue such an injunction<sup>3</sup> to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

Injunction pending inquiry.

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

<sup>4</sup> 143. A District Magistrate or Subdivisional Magistrate or any other Magistrate empowered by the Local Government or the District Magistrate in this behalf, may order<sup>5</sup> any person not to repeat or continue a public nuisance, as defined in the Indian Penal Code or any special or local law.

Magistrate may prohibit repetition or continuance of public nuisance.

## CHAPTER XI.

### TEMPORARY ORDERS IN URGENT CASES OF NUISANCE OR APPREHENDED DANGER.

<sup>4</sup> 144. (1) In cases where, in the opinion of a District Magistrate, a Chief Presidency Magistrate, a Subdivisional Magistrate, or of any other Magistrate specially empowered by the Local Government or the Chief Presidency

Power to issue order absolute at once in urgent cases

<sup>1</sup> As to definition of "good faith," see the Indian Penal Code (Act XLV of 1860), ss. 52 and 76, printed, General Acts, Vol. I, Ed. 1898, p. 240, and s. 3 (20) of the General Clauses Act, 1897 (X of 1867), printed, *supra*, p. 316.

<sup>2</sup> See first and second footnotes on p. 424, *supra*.

<sup>3</sup> See Sch. V, Form XIX, *infra*.

<sup>4</sup> See first footnote on p. 424, *supra*.

<sup>5</sup> See Sch. V, Form XX, *infra*.

(Part IV.—Prevention of Offences. Chap. XII.—Disputes as to Immoveable Property. Sec. 145.)

of nuisance or  
apprehended  
danger.

Magistrate or the District Magistrate to act under this section, immediate prevention or speedy remedy is desirable,

such Magistrate may, by a written order<sup>1</sup> stating the material facts of the case and served in manner provided by section 134, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.

(3) An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

(4) Any Magistrate may rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

(5) No order under this section shall remain in force for more than two months from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the Local Government, by notification in the official Gazette, otherwise directs.

## CHAPTER XII.

### DISPUTES AS TO IMMOVEABLE PROPERTY.

Procedure  
where  
dispute  
concerning  
land, etc., is  
likely to  
cause breach  
of peace.

145. (1) Whenever a District Magistrate, Subdivisional Magistrate or Magistrate of the first class is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

<sup>1</sup> See Sch. V, Form XXI, *infra*.



(Part IV.—Prevention of Offences. Chap. XII.—Disputes as to Immoveable Property. Sec. 146.)

(2) For the purposes of this section the expression “land or water” includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(3) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

(4) The Magistrate shall then, without reference to the merits of the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject :

Inquiry as to possession.

Provided that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date :

Provided also that, if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section.

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

(6) If the Magistrate decides that one of the parties was in such possession of the said subject, he shall issue an order<sup>1</sup> declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction.<sup>2</sup>

Party in possession to retain possession until legally evicted.

(7) Proceedings under this section shall not abate by reason only of the death of any of the parties thereto.

146. (1) If the Magistrate decides that none of the parties was then in such possession, or is unable to satisfy himself as to which of them was then in such

Power to attach subject of dispute.

<sup>1</sup> See Sch. V, Form XXIII, *infra*.

<sup>2</sup> For limitation of suits to recover possession of such property, see the Limitation Act, 1877 (XV of 1877), Sch. II, Art. 47, printed, General Acts, Vol. III, Ed. 1898, p. 91.

(Part IV.—Prevention of Offences. Chap. XII.—Disputes as to Immoveable Property. Secs. 147-148.)

possession of the subject of dispute, he may attach it<sup>1</sup> until a competent Court has determined the rights of the parties thereto, or the person entitled to possession thereof.

(2) When the Magistrate attaches the subject of dispute, he may, if he thinks fit, appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure.<sup>2</sup>

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Disputes  
concerning  
easements,  
etc.

147. Whenever any such Magistrate is satisfied as aforesaid that a dispute likely to cause a breach of the peace exists concerning the right of use of any land or water (including any right of way or other easement over the same) within the local limits of his jurisdiction, he may enquire into the matter in manner provided by section 145, and may, if it appears to him that such right exists, make an order<sup>3</sup> permitting such thing to be done, or directing that such thing shall not be done, as the case may be, until the person objecting to such thing being done, or claiming that such thing may be done, obtains the decision of a competent Court adjudging him to be entitled to prevent the doing of, or to do, such thing, as the case may be :

Provided that no order shall be passed under this section permitting the doing of anything where the right to do such thing is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry ; or, where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or occasions before such institution.

\* Local in-  
quiry.

148. (1) Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate or Subdivisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(2) The report of the person so deputed may be read as evidence in the case.

Order as  
to costs.

(3) When any costs have been incurred by any party to a proceeding under this Chapter for witnesses' fees, or pleaders' fees, or both, the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. All costs so directed to be paid may be recovered as if they were fines.

<sup>1</sup> See Sch. V, Form XXIII, *infra*.

<sup>2</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

<sup>3</sup> See Sch. V, Form XXIV, *infra*.

(Part IV.—*Prevention of Offences. Chap. XIII—Preventive Action of the Police. Secs. 149-153. Part V.—Information to the Police and their Powers to Investigate. Chap. XIV. Sec. 154.*)

## CHAPTER XIII.

### PREVENTIVE ACTION OF THE POLICE.

149. Every police-officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence. Police to prevent cognizable offences.

150. Every police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence. Information of design to commit such offences.

151. A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented. Arrest to prevent such offences.

152. A police-officer may, of his own authority, interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immoveable, or the removal or injury of any public landmark or buoy or other mark used for navigation. Prevention of injury to public property.

153. (1) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false. Inspection of weight and measures

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

## PART V.

### INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

#### CHAPTER XIV.

154. Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police-station, shall be reduced Information in cognizable cases.

(Part V.—*Information to the Police and their Powers to Investigate.* Chap. XIV. Secs. 155-157.)

to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the Local Government may prescribe in this behalf.

Information  
in non-cog-  
nizable  
cases.

155. (1) When information is given to an officer in charge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

Investiga-  
tion into non-  
cognizable  
cases.

(2) No police-officer shall investigate a non-cognizable case without the order of a Magistrate of the first or second class having power to try such case or commit the same for trial, or of a Presidency Magistrate.

(3) Any police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police-station may exercise in a cognizable case.

Investiga-  
tion into cog-  
nizable cases.

156. (1) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

(2) No proceeding of a police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above-mentioned.

Procedure  
where cogniz-  
able offence  
suspected.

157. (1) If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police-report, and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot, to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and arrest of the offender :

Provided as follows :—

Where local  
investigation  
dispensed  
with.

(a) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in

(Part V.—*Information to the Police and their Powers to Investigate.* Chap.  
XIV.—*Secs. 158-162.*)

person or depute a subordinate officer to make an investigation on the spot ;

(b) if it appear to the officer in charge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

Where police-officer in charge sees no sufficient ground for investigation.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police-station shall state in his said report his reasons for not fully complying with the requirements of that sub-section.

158. (1) Every report sent to a Magistrate under section 157 shall, if the Local Government so directs, be submitted through such superior officer of police as the Local Government, by general or special order, appoints in that behalf.

Reports under section 157 how submitted.

(2) Such superior officer may give such instructions to the officer in charge of the police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

159. Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

Power to hold investigation or preliminary inquiry.

160. Any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

Police-officer's power to require attendance of witnesses.

161. (1) Any police-officer making an investigation under this Chapter may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

Examination of witnesses by police.

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

162. (1) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if taken down in writing, be signed by the person making it, nor shall such writing be used as evidence :

Statements to police not to be signed or admitted in evidence.

Provided that, when any witness is called for the prosecution whose statement has been taken down in writing as aforesaid, the Court shall, on the

(Part V.—*Information to the Police and their Powers to Investigate. Chap. XIV.—Secs. 163-164.*)

request of the accused, refer to such writing and may then, if the Court thinks it expedient in the interests of justice, direct that the accused be furnished with a copy thereof; and such statement may be used to impeach the credit of such witness in manner provided by the Indian Evidence Act, 1872.<sup>1</sup>

I of 1872.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1), of the Indian Evidence Act, 1872.

No inducement to be offered.

163. (1) No police-officer or person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Indian Evidence Act, 1872, section 24.

I of 1872.

(2) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will

Power to record statements and confessions.

164. (1) Every Magistrate not being a police-officer may record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.

(2) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried

(3) No Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect:—

“I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(Signed) A. B.,  
Magistrate.”

*Explanation.*—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

<sup>1</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 222.

(Part V.—*Information to the Police and their Powers to Investigate.* Chap. XIV.—Secs. 165-167.)

165. (1) Whenever an officer in charge of a police-station, or a police-officer making an investigation, considers that the production of any document or thing is necessary to the conduct of an investigation into any offence which he is authorised to investigate, and there is reason to believe that a person to whom a summons or order under section 94 has been or might be issued will not or would not produce such document or thing according to the directions of the summons or order, or when such document or thing is not known to be in the possession of any person, such officer may search, or cause search to be made, for the same, in any place within the limits of the station of which he is in charge, or to which he is attached.

Search by  
police-officer.

(2) Such officer shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or thing for which search is to be made, and the place to be searched; and such subordinate officer may thereupon search for such thing in such place.

(4) The provisions of this Code as to search-warrants<sup>1</sup> shall, so far as may be, apply to a search made under this section.

166. (1) An officer in charge of a police-station may require an officer in charge of another police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

When officer  
in charge of  
police-station  
may require  
another to is-  
sue search  
warrant.

(2) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

167. (1) Whenever it appears that any investigation under this Chapter cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused (if any) to such Magistrate.

Procedure  
when inves-  
tigation can-  
not be com-  
pleted in  
twenty-four  
hours.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time authorize the detention of the accused in such custody as such

<sup>1</sup> See ss. 96 to 99, *supra*.

(Part V.—*Information to the Police and their Powers to Investigate.* Chap. XIV.—*Secs. 168-170.*)

Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

(3) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

(4) If such order is given by a Magistrate other than the District Magistrate or Subdivisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate.

Report of investigation by subordinate police-officer.  
Release of accused when evidence deficient.

168. When any subordinate police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police-station.

169. If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond,<sup>1</sup> with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police-report and to try the accused or commit him for trial.

Case to be sent to Magistrate when evidence is sufficient.

170. (1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police-report and to try the accused or commit him for trial or, if the offence is bailable and the accused is able to give security, shall take security<sup>1</sup> from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(2) When the officer in charge of a police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond<sup>1</sup>

<sup>1</sup> See Sch. V, forms XXV and XXVI, respectively.



(Part V.—*Information to the Police and their Powers to Investigate. Chap. XIV.—Secs. 171-172.*)

to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the District Magistrate or Subdivisional Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(4) The day fixed under this section shall be the day whereon the accused person is to appear, if security for his appearance has been taken, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

(5) The officer in whose presence the bond is executed, shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

171. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer,

or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance, other than his own bond :

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer in charge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

172. (1) Every police-officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police-officer who made them, to refresh his memory, or if the Court uses them for the purpose of contradicting such police-officer, the provisions of the

Complainants and witnesses not to be required to accompany police-officer.

Complainants and witnesses not to be subjected to restraint.

Recurrent complainant or witness may be forwarded in custody.

Diary of proceedings in investigation.

(Part V.—*Information to the Police and their Powers to Investigate.* Chap. XIV.—*Secs. 173-174.*)

Indian Evidence Act, 1872,<sup>1</sup> section 161 or section 145, as the case may be, I of 1872 shall apply.

Report of  
police-officer.

173. (1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall forward to a Magistrate empowered to take cognizance of the offence on a police-report a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused person has been forwarded in custody, or has been released on his bond, and, if so, whether with or without sureties.

(2) Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation.

(3) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

Police to in-  
quire and  
report on  
suicide, etc.

<sup>2</sup> 174. (1) The officer in charge of a police-station or some other police-officer specially empowered by the Local Government in that behalf, on receiving information that a person—

(a) has committed suicide, or

(b) has been killed by another, or by an animal, or by machinery, or by an accident, or

(c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Local Government, or by any general or special order of the District or Subdivisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures, bruises and other

<sup>1</sup> Printed, General Acts, Vol II, Ed. 1898, p. 222.

<sup>2</sup> For form in which ss. 174 to 176 should be read in their application to the area comprised within the local limits of the ordinary original civil jurisdiction of the High Court at Madras, see s. 4 (2) of the Madras Coroner's Act, 1889 (V of 1889).

(Part V.—*Information to the Police and their Powers to Investigate.* Chap.  
XIV.—*Secs. 175-176.*)

marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(2) The report shall be signed by such police-officer and other persons or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Subdivisional Magistrate.

(3) When there is any doubt regarding the cause of death, or when for any other reason the police-officer considers it expedient so to do, he shall subject to such rules as the Local Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) In the Presidencies of Fort St. George and Bombay, investigations under this section may be made by the head of the village, who shall then report the result to the nearest Magistrate authorised to hold inquests.

(5) The following Magistrates are empowered to hold inquests, namely, any District Magistrate or Subdivisional Magistrate, and any Magistrate specially empowered in this behalf by the Local Government or the District Magistrate.

175. (1) A police-officer proceeding under section 174 may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

Power to  
summon per-  
sons.

(2) If the facts do not disclose a cognizable offence to which section 17 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

176. (1) When any person dies while in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (a), (b) and (c) of sub-section (1), any Magistrate so empowered may, hold an inquiry into the cause of death, either instead of, or in addition to, the investigation held by the police-officer; and, if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any

Inquiry by  
Magistrate  
into cause of  
death.

(Part VI.—Proceedings in Prosecutions. Chap. XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials. Secs. 177-179.)

of the manners hereinafter prescribed according to the circumstances of the case.

Power to disinter corpses.

(2) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined <sup>1</sup>

## PART VI. PROCEEDINGS IN PROSECUTIONS.

### CHAPTER XV.

#### OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

##### *A.—Place of Inquiry or Trial.*

Ordinary place of inquiry and trial.

177. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Power to order cases to be tried in different sessions divisions.

178. Notwithstanding anything contained in section 177, the Local Government may direct that any cases or class of cases committed for trial in any district may be tried in any sessions division :

Provided that such direction is not repugnant to any direction previously issued by the High Court under section 15 of the Indian High Courts Act, 1861, <sup>2</sup> or under this Code, section 526.

24 & 25 Vict. c. 104.

Accused triable in district where act is done or where consequence ensues.

179. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

##### *Illustrations.*

(a) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried either by X or Z.

(b) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more

<sup>1</sup> A similar power is entrusted to the Coroners of Calcutta and Bombay, see the Coroners' Act, 1871 (IV of 1871), printed, Bombay Code, Ed. 1894, p. 138.

<sup>2</sup> Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 713.

(Part VI.—Proceedings in Prosecutions. Chap. XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials. Secs. 180-181.)

within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y or Court Z to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(c) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

(d) A is wounded in the Native State of Baroda, and dies of his wounds in Poona. The offence of causing A's death may be inquired into and tried in Poona.

**180.** When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Place of trial where act is offence by reason of relation to other offence.

*Illustrations.*

(a) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(b) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(c) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

**181.** (1) The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

Being a thug or belonging to a gang of dacoits, escape from custody, etc.

(2) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed.

Criminal misappropriation and criminal breach of trust.

(3) The offence of stealing anything may be inquired into or tried by a Court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.

Stealing.

(4) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped

Kidnapping and abduction.

(Part VI.—Proceedings in Prosecutions. Chap. XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials. Secs. 182-186.)

or abducted was kidnapped or abducted or was conveyed or concealed or detained.

Place of inquiry or trial where scene of offence is uncertain or not in one district only; or where offence is continuing, or consists of several acts.

182. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

Offence committed on a journey.

183. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

Offences against Railway, Telegraph, Post-office and Arms Acts

184. All offences against the provisions of any law for the time being in force relating to Railways,<sup>1</sup> Telegraphs,<sup>2</sup> the Post-office<sup>3</sup> or Arms and Ammunition<sup>4</sup> may be inquired into or tried in a presidency-town, whether the offence is stated to have been committed within such town or not:

Provided that the offender and all the witnesses necessary for his prosecution are to be found within such town.

High Court to decide, in case of doubt, district where inquiry or trial shall take place.

185. (1) Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this Chapter be inquired into or tried, the High Court, within the local limits of whose appellate criminal jurisdiction the offender actually is, may decide by which Court the offence shall be inquired into or tried.

(2) In Lower Burma, when the offender is an European British subject, the Court of the Recorder of Rangoon, and in all other cases the Court of the Judicial Commissioner, shall, for the purposes of this section, be deemed to be the High Court.

Power to issue summons or

186. (1) When a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the

<sup>1</sup> See the Indian Railways Act, 1890 (IX of 1890), printed, General Acts, Vol. V, Ed. 1898 p. 410.

<sup>2</sup> See the Indian Telegraphs Act, 1885 (XIII of 1885), printed, General Acts, Vol. V, Ed. 1898, p. 11.

<sup>3</sup> See the Indian Post-office Act, 1898 (VI of 1898), printed, *infra*, p. 683.

<sup>4</sup> See the Indian Arms Act, 1878 (XI of 1878), printed, General Acts, Vol. III, Ed. 1898, p. 242.

(Part VI.—Proceedings in Prosecutions. Chap. VI.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials. Secs. 187-188.)

Local Government, a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without British India) an offence which cannot, under the provisions of sections 177 to 181 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in British India, such Magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

warrant for offence committed beyond local jurisdiction.

Magistrate's procedure on arrest.

(2) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent, or bound to appear, the case shall be reported for the orders of the High Court.

187. (1) If the person has been arrested under a warrant issued under section 186 by a Magistrate other than a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Subdivisional Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to enquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police officer executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued.

Procedure where warrant issued by subordinate Magistrate.

(2) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 186, such Magistrate shall send such person to such Court.

188. When a Native Indian subject of Her Majesty commits an offence at any place without and beyond the limits of British India, or

Liability of British subjects for offences committed out of British India.

when any British subject commits an offence in the territories of any Native Prince or Chief in India, or

when a servant of the Queen (whether a British subject or not) commits an offence in the territories of any Native Prince or Chief in India,

he may be dealt with in respect of such offence as if it had been committed at any place within British India at which he may be found :

Provided that no charge as to any such offence shall be inquired into in British India unless the Political Agent, if there is one, for the territory in which the offence is alleged to have been committed, certifies that, in his

Political Agents to certify fit of inquiry into charge

(Part VI.—Proceedings in Prosecutions. Chap. XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials. Secs. 189-191.)

opinion, the charge ought to be inquired into in British India; and, where there is no Political Agent, the sanction of the Local Government shall be required :

Provided, also, that any proceedings taken against any person under this section which would be a bar to subsequent proceedings against such person for the same offence if such offence had been committed in British India shall be a bar to further proceedings against him under the Foreign Jurisdiction and Extradition Act, 1879,<sup>1</sup> in respect of the same offence in any territory beyond the limits of British India. XXI of 18

Power to direct copies of depositions and exhibits to be received in evidence.

189. Whenever any such offence as is referred to in section 188 is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

*B.—Conditions requisite for Initiation of Proceedings.*

Cognizance of offences by Magistrates.

190. (1) Except as hereinafter provided, any Presidency Magistrate, District Magistrate, or Subdivisional Magistrate, and any other Magistrate specially empowered in this behalf, may take cognizance of any offence—

- (a) upon receiving a complaint of facts which constitute such offence ;
- (b) upon a police-report of such facts ;
- (c) upon information received from any person other than a police-officer, or upon his own knowledge or suspicion, that such offence has been committed.

(2) The Local Government, or the District Magistrate subject to the general or special orders of the Local Government, may empower any Magistrate to take cognizance under sub-section (1), clause (a) or clause (b), of offences for which he may try or commit for trial.

(3) The Local Government may empower any Magistrate of the first or second class to take cognizance under sub-section (1), clause (c), of offences for which he may try or commit for trial.

Transfer or commitment on application of accused.

191. When a Magistrate takes cognizance of an offence under sub-section (1), clause (c), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one,

<sup>1</sup> Printed, General Acts, Vol III, Ed. 1898, p. 288.



(Part VI.—Proceedings in Prosecutions. Chap. XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials. Secs. 192-194.)

objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate.

192. (1) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may transfer any case, of which he has taken cognizance, for enquiry or trial, to any Magistrate subordinate to him. Transfer of cases by Magistrates.

(2) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case, to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

193. (1) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session<sup>1</sup> shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate duly empowered in that behalf. Cognizance of offences by Courts of Session.

(2) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only as the Local Government by general or special order may direct them to try, or, in the case of Assistant Sessions Judges, as the Sessions Judge of the division, by general or special order, may make over to them for trial.

194. (1) The High Court may take cognizance of any offence upon a commitment made to it in manner hereinafter provided. Cognizance of offences by High Court.

Nothing herein contained shall be deemed to affect the provisions of any letters patent granted under the Indian High Courts Act, 1861,<sup>2</sup> or any other provision of this Code. 25 Vict. b.

(2) (a) Notwithstanding anything in this Code contained, the Advocate General may, with the previous sanction of the Governor General in Council or the Local Government, exhibit to the High Court, against persons subject to the jurisdiction of the High Court, informations for all purposes for which Her Majesty's Attorney-General may exhibit informations on behalf of the Crown in the High Court of Justice in England. Information by Advocate General.

(b) Such proceedings may be taken upon every such information as may lawfully be taken in the case of similar informations filed by Her Majesty's Attorney-General so far as the circumstances of the case and the practice and procedure of the said High Court will admit.

<sup>1</sup> As to procedure of Courts of Session in Upper Burma, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Sch. III, s. II (b). This procedure, however, does not affect the Code in its application to European British subjects in Upper Burma, see s. XVII, *ibid*, printed, Burma Code, Ed. 1899.

<sup>2</sup> Printed, Collection of Statutes relating to India, Ed. Vol. II, 1881, p. 713.

(Part VI.—Proceedings in Prosecutions. Chap. XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials. Sec. 195.)

(c) All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information shall belong to the Government of India.

(d) The High Court may make rules for carrying into effect the provisions of this section.

Prosecution  
for contempts  
of lawful  
authority of  
public  
servants.

195. (1) No Court shall take cognizance—

(a) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code,<sup>1</sup> except with the previous sanction, or on the complaint, of the public servant concerned or of some public servant to whom he is subordinate; XIV of 1860

Prosecution  
for certain  
offences  
against public  
justice.

(b) of any offence punishable under section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the same Code, when such offence is committed in, or in relation to, any proceeding in any Court, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate;

Prosecution  
for certain  
offences  
relating to  
documents  
given in  
evidence.

(c) of any offence described in section 463 or punishable under section 471, 475 or 476 of the same Code, when such offence has been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except with the previous sanction, or on the complaint, of such Court, or of some other Court to which such Court is subordinate.

(2) In clauses (b) and (c) of sub-section (1) the term "Court" means a Civil, Revenue or Criminal Court, but does not include a Registrar or Sub-Registrar under the Indian Registration Act, 1877.<sup>2</sup>

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(3) The provisions of sub-section (1), with reference to the offences named therein, apply also to the abetment of such offences, and attempts to commit them.

Nature of  
sanction  
necessary.

(4) The sanction referred to in this section may be expressed in general terms, and need not name the accused person; but it shall, so far as practicable, specify the Court or other place in which, and the occasion on which, the offence was committed.

(5) When sanction is given in respect of any offence referred to in this section, the Court taking cognizance of the case may frame a charge of any other offence so referred to which is disclosed by the facts.

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>2</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 41.

(Part VI.—Proceedings in Prosecutions. Chapter XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials. Secs. 196-197.)

(6) Any sanction given or refused under this section may be revoked or granted by any authority to which the authority giving or refusing it is subordinate; and no sanction shall remain in force for more than six months from the date on which it was given: Provided that the High Court may, for good cause shewn, extend the time.

(7) For the purposes of this section every Court shall be deemed to be subordinate only to the Court to which appeals from the former Court ordinarily lie, that is to say:—

(a) where such appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where such appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case in connection with which the offence is alleged to have been committed;

(c) where no appeal lies, such Court shall be deemed to be subordinate to the principal Court of original jurisdiction within the local limits of whose jurisdiction such first-mentioned Court is situate.

1860. 196. No Court shall take cognizance of any offence punishable under Chapter VI of the Indian Penal Code<sup>1</sup> (except section 127), or punishable under section 108A, or section 153A, or section 294A, or section 505 of the same Code, unless upon complaint made by order of, or under authority from, the Governor General in Council, the Local Government, or some officer empowered by the Governor General in Council in this behalf.

Prosecution for offences against the State.

197. (1) When any Judge, or any public servant not removable from his office without the sanction of the Government of India or the Local Government, is accused as such Judge or public servant of any offence, no Court shall take cognizance of such offence, except with the previous sanction of the Government having power to order his removal, or of some officer empowered in this behalf by such Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power to give such sanction has not been limited by such Government.

Prosecution of Judges and public servants.

(2) Such Government may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such Judge or public servant is to be conducted, and may specify the Court before which the trial is to be held.

Power of Government as to prosecution.

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part VI.—Proceedings in Prosecutions. Chapter XV.—Of the Jurisdiction of the Criminal Courts in Inquiries and Trials. Secs. 198-199. Chapter XVI.—Of Complaints to Magistrates. Secs. 200-201.)

Prosecution for breach of contract, defamation and offences against marriage.

Prosecution for adultery or enticing a married woman.

198. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Indian Penal Code<sup>1</sup> or under sections 493 to 496 (both inclusive) of the same Code, except upon a complaint made by some person aggrieved by such offence. XLV of 1

199. No Court shall take cognizance of an offence under section 497 or section 498 of the Indian Penal Code,<sup>1</sup> except upon a complaint made by the husband of the woman, or, in his absence, by some person who had care of such woman on his behalf at the time when such offence was committed. XLV of 1

## CHAPTER XVI.

### OF COMPLAINTS TO MAGISTRATES.

Examination of complainant

200. Subject to the provisions of section 476, a Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate :

Provided as follows :—

- (a) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 192 ;
- (b) where the Magistrate is a Presidency Magistrate, such examination may be on oath or not as the Magistrate in each case thinks fit, and need not be reduced to writing ; but the Magistrate may, if he thinks fit, before the matter of the complaint is brought before him, require it to be reduced to writing ;
- (c) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

Procedure by Magistrate not competent to take cognizance of the case.

201. (1) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(2) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part VI.—Proceedings in Prosecutions. Chap. XVI.—Of Complaints to Magistrates. Secs. 202-203. Chap. XVII.—Of the Commencement of Proceedings before Magistrates. Sec. 204.)

202. (1) If the Chief Presidency Magistrate, or any other Presidency Magistrate whom the Local Government may from time to time authorize in this behalf, or any Magistrate of the first or second class, is not satisfied as to the truth of a complaint of an offence of which he is authorized to take cognizance, he may, when the complainant has been examined, record his reasons, and may then postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or direct a previous local investigation to be made by any officer subordinate to such Magistrate, or by a police-officer, or by such other person, not being a Magistrate or police officer, as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

Postpone-  
ment of issue  
of process.

(2) If such investigation is made by some person not being a Magistrate or a police-officer, he shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.

(3) This section applies also to the police in the towns of Calcutta and Bombay.

203. The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, after examining the complainant and considering the result of the investigation (if any) made under section 202, there is in his judgment no sufficient ground for proceeding.<sup>1</sup> In such case he shall briefly record his reasons for so doing.

Dismissal of  
complaint.

## CHAPTER XVII.

### OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

204. (1) If, in the opinion of a Magistrate taking cognizance of an offence, there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the second schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant<sup>2</sup> should issue in the first instance, he may issue a warrant or, if he thinks fit, a summons for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction.

Issue of pro-  
cess.

<sup>1</sup> See the Indian Penal Code (Act XLV of 1860), s. 95, printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part VI.—Proceedings in Prosecutions. Chap. XVII.—Of the Commencement of Proceedings before Magistrates. Sec. 205. Chap. XVIII.—Of Inquiry into Cases triable by the Court of Session or High Court. Secs. 206-208.)

(2) Nothing in this section shall be deemed to affect the provisions of section 90.

(3) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

Magistrate may dispense with personal attendance of accused.

205. (1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

## CHAPTER XVIII.

### OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

Power to commit for trial.

206. (1) Subject to the provisions of section 443, any Presidency Magistrate, District Magistrate, Subdivisional Magistrate or Magistrate of the first class, or any Magistrate empowered in this behalf by the Local Government, may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

(2) But, save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

Procedure in inquiries preparatory to commitment.

207. The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court.

Taking of evidence produced.

208. (1) The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

(2) The accused shall be at liberty to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

Process for production

(3) If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any

(Part VI.—Proceedings in Prosecutions. Chap. XVIII.—Of Inquiry into Cases triable by the Court of Session or High Court. Secs. 209-213.)

witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so. of further evidence.

(4) Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

209. (1) When the evidence referred to in section 208, sub-sections (1) and (3), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly. When accused person to be discharged.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

210. (1) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged. When charge is to be framed.

(2) As soon as the charge has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost. Charge to be explained, and copy furnished, to accused.

211. (1) The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial. List of witnesses for defence on trial.

(2) The Magistrate may, in his discretion, allow the accused to give in any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, to the Clerk of the Crown a further list of the persons whom he wishes to be summoned to give evidence on such trial. Further list.

212. The Magistrate may, in his discretion, summon and examine any witness named in any list given in to him under section 211. Power of Magistrate to examine such witnesses.

213. (1) When the accused, on being required to give in a list under section 211, has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine Order of commitment.

(Part VI.—*Proceedings in Prosecutions. Chap. XVIII.—Of Inquiry into Cases triable by the Court of Session or High Court. Secs. 214-217.*)

have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

(2) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused.

Person charged outside presidency-towns jointly with European British subject.

214. If any person (not being an European British subject) is accused before a Magistrate other than a Presidency Magistrate of having committed an offence conjointly with an European British subject, who is about to be committed for trial, or to be tried before the High Court on a similar charge arising out of the same transaction, and the Magistrate finds that there are sufficient grounds for committing the accused for trial, he shall commit him for trial before the High Court, and not before the Court of Session.

Quashing commitments under section 213 or 214.

215. A commitment once made under section 213 or section 214 by a competent Magistrate or by a Court of Session under section 477, or by a Civil or Revenue Court under section 478, can be quashed by the High Court only, and only on a point of law.

Summons to witnesses for defence when accused is committed.

216. When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list, as have not appeared before himself, to appear before the Court to which the accused has been committed:

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the Clerk of the Crown, and such witnesses may be summoned accordingly:

Refusal to summon unnecessary witness unless deposit made.

Provided, also, that, if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

Bond of complainants and witnesses.

217. (1) Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court to prosecute or to give evidence, as the case may be.



(Part VI.—Proceedings in Prosecutions. Chap. XVIII.—Of Inquiry into Cases triable by the Court of Session or High Court. Secs. 218-220. Chap. XIX.—Of the Charge. Sec. 221.)

(2) If any complainant or witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

Detention in custody in case of refusal to attend or to execute bond.

218. (1) When the accused is committed for trial, the Magistrate shall issue an order<sup>1</sup> to such person as may be appointed by the Local Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge;

Commitment when to be notified.

and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence to the Court of Session or (where the commitment is made to the High Court) to the Clerk of the Crown or other officer appointed in this behalf by the High Court.

Charge, etc., to be forwarded to High Court or Court of Session.

(2) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

English translation to be forwarded to High Court. Power to summon supplementary witnesses.

219. (1) The Magistrate may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

(2) Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall, if the accused so require, be given to him free of cost.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail,<sup>2</sup> commit the accused, by warrant, to custody.

Custody of accused pending trial.

## CHAPTER XIX.

### OF THE CHARGE.

#### *Form of Charges.*<sup>3</sup>

221. (1) Every charge under this Code shall state the offence with which the accused is charged.

Charge to state offence.

<sup>1</sup> See Sch. V, form XXVII, *infra*.

<sup>2</sup> See Ch. XXXIX, *infra*.

<sup>3</sup> See Sch. V, form XXVIII, *infra*.

(Part VI.—Proceedings in Prosecutions. Chap. XIX.—Of the Charge.  
Sec. 221.)

- Specific name of offence sufficient description. How stated where offence has no specific name.
- (2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.
- (3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.
- (4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.
- What implied in charge.
- (5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.
- Language of charge.
- (6) In the presidency-towns the charge shall be written in English ; elsewhere it shall be written either in English or in the language of the Court.
- Previous conviction when to be set out.
- (7) If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court is competent to award,<sup>1</sup> the fact, date and place of the previous conviction shall be stated in the charge. If such statement is omitted, the Court may add it at any time before sentence is passed.

*Illustrations.*

- (a) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code that it did not fall within any of the general exceptions of the same Code ; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within Exception I, one or other of the three provisos to that exception applied to it. XLV
- (b) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it. XLV
- (c) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code ; but the sections under which the offence is punishable must, in each instance, be referred to in the charge. XLV
- (d) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words. XLV

<sup>1</sup> See the Indian Penal Code (Act XLV of 1860), s. 75, printed, General Acts, Vol. I, Ed. 1898, p. 240 ; see the Whipping Act, 1864 (VI of 1864), ss. 3 and 4, printed, *ibid*, p. 429. See also *infra*, ss. 310, 348 and 511.

(Part VI.—Proceedings in Prosecutions. Chap. XIX—Of the Charge.  
Secs. 222-225.)

222. (1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged. Particulars as to time, place and person.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 231 :

Provided that the time included between the first and last of such dates shall not exceed one year.

223. When the nature of the case is such that the particulars mentioned in sections 221 and 222 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose. When manner of committing offence must be stated.

#### *Illustrations.*

(a) A is accused of the theft of a certain article, at a certain time and place. The charge need not set out the manner in which the theft was effected.

(b) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(c) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(d) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(e) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(f) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

224. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable. Words in charge taken in sense of law under which offence is punishable.

225. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused Effect of errors.

(Part VI.—Proceedings in Prosecutions. Chap. XIX.—Of the Charge.  
Sec. 226.)

was in fact misled by such error or omission, and it has occasioned a failure of justice.

*Illustrations.*

(a) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material. XLV of

(b) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(c) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(d) A is charged with the murder of Khoda Baksh on the 21st January, 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January, 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e) A was charged with murdering Haidar Baksh on the 20th January, 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January, 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled and that the error was material.

Procedure  
on commit-  
ment without  
charge or  
with imper-  
fect charge.

226. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, or, in the case of a High Court, the Clerk of the Crown, may frame a charge, or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

*Illustrations.*

1. A is charged with the murder of C. A charge of abetting the murder of C may be added or substituted.

2. A is charged with forging a valuable security under section 467 of the Indian Penal Code. A charge of fabricating false evidence under section 193 may be added. XLV a

3. A is charged with receiving stolen property knowing it to be stolen. During the trial it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 235 of the Indian Penal Code cannot be added. XLV o

(Part VI.—Proceedings in Prosecutions. Chap. XIX.—Of the Charge.  
Secs. 227-232.)

227. (1) Any Court may alter or add to any charge at any time before judgment is pronounced, or, in the case of trials before the Court of Session or High Court, before the verdict of the jury is returned or the opinions of the assessors are expressed. Court may alter charge.

(2) Every such alteration or addition shall be read and explained to the accused.

228. If the charge framed or alteration or addition made under section 226 or section 227 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered charge had been the original charge. When trial may proceed immediately after alteration.

229. If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary. When new trial may be directed, or trial suspended.

230. If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded. Stay of proceedings if prosecution of offence in altered charge require previous sanction.

231. Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, and also to call any further witness whom the Court may think to be material. Recall of witnesses when charge altered.

232. (1) If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit. Effect of material error.

(2) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

*Illustration.*

of 1860. A is convicted of an offence, under section 196 of the Indian Penal Code, upon a charge which omits to state that he knew the evidence, which he corruptly used or attempted to use

(Part VI.—Proceedings in Prosecutions. Chap. XIX.—Of the Charge.  
Secs. 233-235.)

as true or genuine, was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but, if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

*Joinder of Charges.*

Separate  
charges for  
distinct  
offences.

233. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 234, 235, 263 and 239.

*Illustration.*

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

Three  
offences of  
same kind  
within year  
may be  
charged  
together.

234. (1) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

(2) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Indian Penal Code<sup>1</sup> or of any special or local law. XLV of

Trial for  
more than  
one offence.

235. (1) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

Offence fall-  
ing within  
two defini-  
tions.

(2) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

Acts con-  
stituting one  
offence, but  
constituting  
when com-  
bined a dif-  
ferent offence.

(3) If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(4) Nothing contained in this section shall affect the Indian Penal Code, section 71. XLV of

*Illustrations*

to sub-section (1)—

(a) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sections 225 and 333 of the Indian Penal Code.

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<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

*(Part VI—Proceedings in Prosecutions. Chap. XIX.—Of the Charge.**Sec. 235.)*

(b) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497 of the Indian Penal Code.<sup>1</sup>

(c) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497 of the Indian Penal Code.

(d) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 466 of the Indian Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 473 of the Indian Penal Code.

(e) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charges. A may be separately charged with, and convicted of, two offences under section 211 of the Indian Penal Code.

(f) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 211 and 194 of the Indian Penal Code.

(g) A, with six others, commits the offences of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 147, 325 and 152 of the Indian Penal Code.

(h) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 506 of the Indian Penal Code.

The separate charges referred to in illustrations (a) to (h) respectively may be tried at the same time.

*to sub-section (2) —*

(i) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code.

(j) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with, and convicted of, offences under sections 411 and 414 of the Indian Penal Code.

(k) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 304 of the Indian Penal Code.

(l) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 167 of the Indian Penal Code. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the same Code.

(Part VI.—Proceedings in Prosecutions. Chap. XIX.—Of the Charge.

Secs. 236-238.)

to sub-section (3)—

(m) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code.

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Where it is doubtful what offence has been committed.

236. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

#### Illustrations.

(a) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

(b) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

When a person is charged with one offence, he can be convicted of another.

237. (1) If, in the case mentioned in section 236, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

(2) When the accused is charged with an offence, he may be convicted of having attempted to commit that offence, although the attempt is not separately charged.

#### Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be), though he was not charged with such offence.

When offence proved included in offence charged.

238. (1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(2) When a person is charged with an offence and facts are proved which



(Part VI.—Proceedings in Prosecutions. Chap. XIX.—Of the Charge.  
Secs. 239-240.)

reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

(3) Nothing in this section shall be deemed to authorise a conviction of any offence referred to in section 198 or section 199 when no complaint has been made as required by that section.

*Illustrations.*

of 1860. (a) A is charged, under section 407 of the Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

of 1860. (b) A is charged, under section 325 of the Indian Penal Code, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

239. When more persons than one are accused of the same offence or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together or separately, as the Court thinks fit; and the provisions contained in the former part of this Chapter shall apply to all such charges.

What person may be charged jointly.

*Illustrations.*

(a) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(b) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(c) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

240. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

Withdrawal of remaining charges on conviction on one of several charges.

(Part VI.—*Proceedings in Prosecutions. Chap. XX.—Of the Trial of Summons-cases by Magistrates. Secs. 241-247.*)

## CHAPTER XX.

## OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

Procedure in  
summons-  
cases.

241. The following procedure shall be observed by Magistrates in the trial of summons-cases.

Substance  
of accusa-  
tion to be  
stated.

242. When the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted; but it shall not be necessary to frame a formal charge.<sup>1</sup>

Conviction  
on admission  
of truth of  
accusation.

243. If the accused admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and, if he shows no sufficient cause why he should not be convicted, the Magistrate shall convict him accordingly.

Procedure  
when no such  
admission  
made.

244. (1) If the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

(2) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue process to compel the attendance of any witness or the production of any document or other thing.

(3) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

Acquittal.

245. (1) If the Magistrate upon taking the evidence referred to in section 244 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

Sentence.

(2) If he finds the accused guilty, he shall pass sentence upon him according to law.<sup>2</sup>

Finding  
not limited  
by complaint  
or summons.

246. A Magistrate may,\* under section 243 or section 245, convict the accused of any offence triable under this Chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons.

Non-ap-  
pearance of  
complainant.

247. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to

<sup>1</sup> Except in the case of trials of European British subjects by District Magistrates, *see* s. 451 (4), *infra*.

<sup>2</sup> *See* Sch. V, form XXIX, *infra*.

(Part VI.—*Proceedings in Prosecutions. Chap. XX.—Of the Trial of Summons-cases by Magistrates. Secs. 248-250.*)

which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day :

Provided that, where the complainant is a public servant and his personal attendance is not required, the Magistrate may dispense with his attendance, and proceed with the case.

248. If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused. Withdrawal of complaint.

249. In any case instituted otherwise than upon complaint, a Presidency Magistrate, a Magistrate of the first class, or, with the previous sanction of the District Magistrate, any other Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused. Power to stop proceedings when no complainant.

*Frivolous Accusations in Summons and Warrant-cases.*

250. (1) If, in any case instituted by complaint as defined in this Code or upon information given to a police-officer or to a Magistrate, a person is accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits the accused and is satisfied that the accusation against him was frivolous or vexatious, the Magistrate may, in his discretion, by his order of discharge or acquittal, direct the person upon whose complaint or information the accusation was made to pay to the accused, or to each of the accused where there are more than one, such compensation, not exceeding fifty rupees, as the Magistrate thinks fit : Frivolous or vexatious accusations.

Provided that, before making any such direction, the Magistrate shall—

- (a) record and consider any objection which the complainant or informant may urge against the making of the direction, and,
- (b) if the Magistrate directs any compensation to be paid, state in writing, in his order of discharge or acquittal, his reasons for awarding the compensation.

(2) Compensation of which a Magistrate has ordered payment under subsection (1) shall be recoverable as if it were a fine :

Provided that, if it cannot be recovered, the imprisonment to be awarded shall be simple, and for such term, not exceeding thirty days, as the Magistrate directs.

(Part VI.—Proceedings in Prosecutions. Chap. XXI.—Of the Trial of Warrant-cases by Magistrates. Secs. 251-254.)

(3) A complainant or informant who has been ordered under sub-section (1) by a Magistrate of the second or third class to pay compensation to an accused person may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(4) Where an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (3), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any compensation paid or recovered under this section.

## CHAPTER XXI.

### OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

Procedure  
in warrant-  
cases.  
Evidence  
for prosecu-  
tion.

251. The following procedure shall be observed by Magistrates in the trial of warrant-cases.

252. (1) When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution.

(2) The Magistrate shall ascertain, from the complainant or otherwise, the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution, and shall summon<sup>1</sup> to give evidence before himself such of them as he thinks necessary.

Discharge  
of accused.

253. (1) If, upon taking all the evidence referred to in section 252, and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

Charge to be  
framed when

254.<sup>2</sup> If, when such evidence and examination have been taken and made,

<sup>1</sup> See Sch. V, form XXXI, *infra*.

<sup>2</sup> See ss. 252 and 208, *supra*.

(Part VI.—*Proceedings in Prosecutions. Chap. XXI.—Of the Trial of Warrant-cases by Magistrates. Secs. 255-258.*)

or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused. offence appears proved.

255. (1) The charge shall then be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make. Plea.

(2) If the accused pleads guilty, the Magistrate shall record the plea. and may in his discretion convict him thereon.

256. (1) If the accused refuses to plead, or does not plead, or claims to be tried, he shall be required to state whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken. If he says he does so wish, the witnesses named by him shall be re-called, and, after cross-examination and re-examination (if any), they shall be discharged. The evidence of any remaining witnesses for the prosecution shall next be taken, and, after cross-examination and re-examination (if any), they also shall be discharged. The accused shall then be called upon to enter upon his defence and produce his evidence. Defence.

(2) If the accused puts in any written statement, the Magistrate shall file it with the record.

257. (1) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing : Process for compelling production of evidence at instance of accused.

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(2) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

258. (1) If in any case under this Chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal. Acquittal.

(Part VI.—Proceedings in Prosecutions. Chap. XXI.—Of the Trial of Warrant-cases by Magistrates. Sec. 259. Chap. XXII.—Of Summary Trials. Sec. 260.)

Conviction. (2) If in any such case the Magistrate finds the accused guilty, he shall pass sentence upon him according to law.<sup>1</sup>

Absence of complainant. 259. When the proceedings have been instituted upon complaint, and upon any day fixed for the hearing of the case the complainant is absent, and the offence may be lawfully compounded,<sup>2</sup> the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

## CHAPTER XXII.

### OF SUMMARY TRIALS.

Power to try summarily.

260.<sup>3</sup> (1) Notwithstanding anything contained in this Code,—

- (a) the District Magistrate,
- (b) any Magistrate of the first class specially empowered in this behalf by the Local Government, and
- (c) any Bench of Magistrates invested with the powers of a Magistrate of the first class and specially empowered in this behalf by the Local Government,

may, if he or they think fit, try in a summary way all or any of the following offences:—

- (a) offences not punishable with death, transportation or imprisonment for a term exceeding six months ;
- (b) offences relating to weights and measures under sections 264, 265 and 266 of the Indian Penal Code;<sup>4</sup>
- (c) hurt, under section 323 of the same Code ;
- (d) theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed fifty rupees ;
- (e) dishonest misappropriation of property under section 403 of the same Code, where the value of the property misappropriated does not exceed fifty rupees ;
- (f) receiving or retaining stolen property, under section 411 of the same

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<sup>1</sup> See Sch. V, Form XXIX, *infra*.

<sup>2</sup> See s. 345, *infra*.

<sup>3</sup> As to powers of Magistrates in Upper Burma, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, s. V. As to European British subjects, however, see *ibid*, s. XVII, printed, Burma Code, Ed. 1899. As to summary trial of forest offences, see the Indian Forest Act, 1878 (VII of 1878), s. 65. Printed, General Acts, Ed. 1898, Vol. III, p. 151.

<sup>4</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part. VI.—Proceedings in Prosecutions. Chap. XXII.—Of Summary Trials.  
Secs. 261-262.)

Code, where the value of such property does not exceed fifty rupees ;

(g) assisting in the concealment or disposal of stolen property, under section 414 of the same Code, where the value of such property does not exceed fifty rupees ;

(h) mischief, under section 427 of the same Code ;

(i) house-trespass, under section 448, and offences under sections 451, 456 and 457 of the same Code ;

(j) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, under section 506 of the same Code ;

(k) abetment of any of the foregoing offences ;

(l) an attempt to commit any of the foregoing offences when such attempt is an offence ;

(m) offences under section 20 of the Cattle-trespass Act, 1871 :<sup>1</sup>

Provided that no case in which a Magistrate exercises the special powers conferred by section 34 shall be tried in a summary way.

(2) When in the course of a summary trial it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witnesses who may have been examined and proceed to re-hear the case in manner provided by this Code.

261. The Local Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences :—

Power to invest Bench of Magistrates invested with less power.

10.

(a) offences against the Indian Penal Code,<sup>2</sup> sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426 and 447 ;

(b) offences against Municipal Acts and the conservancy clauses of Police Acts which are punishable only with fine or with imprisonment for a term not exceeding one month ;

(c) abetment of any of the foregoing offences ;

(d) an attempt to commit any of the foregoing offences, when such attempt is an offence.

262. (1) In trials under this Chapter, the procedure prescribed for summons-cases shall be followed in summons-cases, and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

Procedure for summons and warrant-cases applicable.

<sup>1</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 183.

<sup>2</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part VI—Proceedings in Prosecutions. Chap. XXII.—Of Summary Trials.  
Secs. 263-265.)

Limit of  
imprison-  
ment.

Record in  
cases where  
there is no  
appeal.

(2) No sentence of imprisonment for a term exceeding three months shall be passed in the case of any conviction under this chapter.

263. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses or frame a formal charge; but he or they shall enter in such form as the Local Government may direct the following particulars:—

- (a) the serial number;
- (b) the date of the commission of the offence;
- (c) the date of the report or complaint;
- (d) the name of the complainant (if any);
- (e) the name, parentage and residence of the accused;
- (f) the offence complained of and the offence (if any) proved, and in cases coming under clause (d), clause (e), clause (f) or clause (g) of sub-section (1) of section 260 the value of the property in respect of which the offence has been committed;
- (g) the plea of the accused and his examination (if any);
- (h) the finding, and, in the case of a conviction, a brief statement of the reasons therefor;
- (i) the sentence or other final order; and
- (j) the date on which the proceedings terminated.

Record in  
appealable  
cases.

264. (1) In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record a judgment embodying the substance of the evidence and also the particulars mentioned in section 263.

(2) Such judgment shall be the only record in cases coming within this section.

Language  
of record  
and judg-  
ment.

265. (1) Records made under section 263 and judgments recorded under section 264 shall be written by the presiding officer, either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately subordinate so directs, in such officer's mother-tongue.

Bench may  
be authorised  
to employ  
clerk.

(2) The Local Government may authorise any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

(3) If no such authorisation be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.



(Part VI.—Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs. 266-269.)

(4) If the Bench differ in opinion, any dissentient member may write a separate judgment.

## CHAPTER XXIII.

### OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSION.<sup>1</sup>

#### *A—Preliminary*

266. In this Chapter, except in sections 276 and 307, and in Chapter XVIII, the expression "High Court" means a High Court of Judicature established or to be established under the Indian High Courts Act, 1861,<sup>2</sup> and includes the Chief Court of the Punjab, the Court of the Recorder of Rangoon and such other Courts as the Governor General in Council may, by notification in the Gazette of India, declare to be High Courts for the purposes of this Chapter.

"High Court" defined.

267. All trials under this Chapter before a High Court shall be by jury; and, notwithstanding anything herein contained, in all criminal cases transferred to a High Court under this Code or under the Letters Patent of any High Court established under the Indian High Courts Act, 1861, the trial may, if the High Court so directs, be by jury.

Trial before High Court to be by jury.

268. All trials before a Court of Session shall be either by jury, or with the aid of assessors.

Trials before Court of Session to be by jury or with assessors.

269. (1) The Local Government may, with the previous sanction of the Governor General in Council, by order in the official Gazette, direct that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury in any district, and may, with the like sanction, revoke or alter such order.

Local Government may order trials before Court of Session to be by jury.

(2) The Local Government, by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offences shall, if the Judge, on application made to him or of his own motion, so directs, be by jurors summoned from a special jury list, and may revoke or alter such order.

(3) When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for

<sup>1</sup> As to Courts of Session in Upper Burma, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, s. II. As to European British subjects, see s. XXII, *ibid*, printed, Burma Code, Ed. 1899.

<sup>2</sup> Printed, Collection of Statutes relating to India, Vol. II, Ed. 1861, p. 713.

(Part VI.—*Proceedings in Prosecutions.* Chap. XXIII.—*Of Trials before High Courts and Courts of Session. Secs. 270-275.*)

such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.

Trial before Court of Session to be conducted by Public Prosecutor.

270. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor.

*B.—Commencement of Proceedings.*

Commencement of trial.

271. (1) When the Court is ready to commence the trial, the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

Plea of guilty.

(2) If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

Refusal to plead or claim to be tried.

272. If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed and to try the case:

Trial by same jury or assessors of several offenders in successions.

Provided that, subject to the right of objection hereinafter mentioned, the same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as the Court thinks fit.

Entry on unsustainable charges.

273. (1) In trials before the High Court, when it appears to the High Court, at any time before the commencement of the trial of the person charged, that any charge or any portion thereof is clearly unsustainable, the Judge may make on the charge an entry to that effect.

Effect of entry.

(2) Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

*C.—Choosing a Jury.*

Number of jury.

274. (1) In trials before the High Court the Jury shall consist of nine persons.

(2) In trials by jury before the Court of Session the jury shall consist of such uneven number, not being less than three, or more than nine, as the Local Government, by order applicable to any particular district or to any particular class of offences in that district, may direct.

Jury for trial of persons not Europeans or Americans before Court of Session.

275. In a trial by jury before the Court of Session of a person not being an European or an American, a majority of the jury shall, if he so desires, consist of persons who are neither Europeans nor Americans.

(Part VI.—Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs. 276-278.)

**276.** The jurors shall be chosen by lot from the persons summoned to act as such, in such manner as the High Court may from time to time by rule direct:

Provided that—

- first*, pending the issue under this section of rules for any Court, the practice now prevailing in such Court in respect to the choosing of jurors shall be followed, Existing practice maintained;
- secondly*, in case of a deficiency of persons summoned, the number of jurors required may, with the leave of the Court, be chosen from such other persons as may be present; persons not summoned when eligible;
- thirdly*, in the presidency-towns— trials before special jurors.
  - (a) if the accused person is charged with having committed an offence punishable with death, or
  - (b) if in any other case a Judge of the High Court so directs, the jurors shall be chosen from the special jury list hereinafter prescribed, and
- fourthly*, in any district for which the Local Government has declared that the trial of certain offences may be by special jury, the juror shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325.

**277.** (1) As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused shall be asked if he objects to be tried by such juror. Names of jurors to be called.

(2) Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated: Objection to jurors.

Provided that, in the High Court, objections without grounds stated shall be allowed to the number of eight on behalf of the Crown and eight on behalf of the person or all the persons charged. Objection without grounds stated.

**278.** Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed:— Grounds of objection.

- (a) some presumed or actual partiality in the juror;
- (b) some personal ground, such as alienage, deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of twenty-one or above the age of sixty years;
- (c) his having by habit or religious vows relinquished all care of worldly affairs;
- (d) his holding any office in or under the Court;

(Part VI.—*Proceedings in Prosecutions.* Chap. XVIII.—*Of Trials before High Courts and Courts of Session. Secs. 279-283.*)

- (e) his executing any duties of police or being entrusted with police-duties ;
- (f) his having been convicted of any offence which, in the opinion of the Court, renders him unfit to serve on the jury ;
- (g) his inability to understand the language in which the evidence is given, or when such evidence is interpreted, the language in which it is interpreted ;
- (h) any other circumstance which, in the opinion of the Court, renders him improper as a juror.

Decision of  
objection.

279. (1) Every objection taken to a juror shall be decided by the Court, and such decision shall be recorded and be final.

Supply of  
place of juror  
against  
whom objec-  
tion allowed.

(2) If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons and chosen in manner provided by section 276, or if there is no such other juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury :

Provided that no objection to such juror or other person is taken under section 278 and allowed.

Foreman of  
jury.

280. (1) When the jurors have been chosen, they shall appoint one of their number to be foreman.

(2) The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the Court that is required by the jury or any of the jurors.

(3) If a majority of the jury do not, within such time as the Judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the Court.

Swearing of  
jurors.

281. When the foreman has been appointed, the jurors shall be sworn under the Indian Oaths Act, 1873.<sup>1</sup>

Procedure  
when juror  
ceases to at-  
tend, etc.

282. (1) If, in the course of a trial by jury, at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself, and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given, or, when such evidence is interpreted, the language in which it is interpreted, a new juror shall be added, or the jury shall be discharged and a new jury chosen.

X of 1873.

(2) In each of such cases the trial shall commence anew.

Discharge of  
jury in case  
of sickness of  
prisoner.

283. The Judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

<sup>1</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 411.

(Part VI.—Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs. 284-289.)

*D.—Choosing Assessors.*

284. When the trial is to be held with the aid of assessors, two or more shall be chosen, as the Judge thinks fit, from the persons summoned to act as such. Assessors how chosen.

285. (1) If, in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors. Procedure when assessor is unable to attend.

(2) If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

*E—Trial to Close of Cases for Prosecution and Defence.*

360. 286. (1) When the jurors or assessors have been chosen, the prosecutor shall open his case by reading from the Indian Penal Code<sup>1</sup> or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused. Opening case for prosecution.

(2) The Prosecutor shall then examine his witnesses.

287. The examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.<sup>2</sup> Examination of witnesses. Examination of accused before Magistrate to be evidence.

288. The evidence of a witness duly taken in the presence of the accused before the committing Magistrate may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case. Evidence given at preliminary inquiry admissible.

289. (1) When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence. Procedure after examination of witnesses for prosecution.

(2) If he says that he does not, the prosecutor may sum up his case; and, if the Court considers that there is no evidence that the accused committed the offence, it may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(3) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is no evidence that the

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>2</sup> See the Indian Evidence Act, 1872 (I of 1872), s. 80, printed, General Acts, Ed. 1898, Vol. II, p. 254.

(Part VI.—*Proceedings in Prosecutions. Chap. XVIII.—Of Trials before High Courts and Courts of Session. Secs. 290-295.*)

accused committed the offence, the Court may then, in a case tried with the aid of assessors, record a finding, or, in a case tried by a jury, direct the jury to return a verdict of not guilty.

(4) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

Defence.

290. The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

Right of accused as to examination and summoning of witnesses.

291. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance: but he shall not, except as provided in sections 211 and 231, be entitled of right to have any witness summoned other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

Prosecutor's right of reply.

292. If the accused, or any of the accused, adduces any evidence, the prosecutor shall be entitled to reply.

View by jury or assessors.

293. (1) Whenever the Court thinks that the jury or assessors should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the Court shall make an order to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court.

(2) Such officer shall not, except with the permission of the Court, suffer any other person to speak to, or hold any communication with, any of the jury or assessors, and, unless the Court otherwise directs, they shall, when the view is finished, be immediately conducted back into Court.

When juror or assessor may be examined.

294. If a juror or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be sworn, examined, cross-examined and re-examined in the same manner as any other witness.

Jury or assess-

295. If a trial is adjourned, the jury or assessors shall attend at the

(Part VI.—*Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs. 296-298.*)

adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

sors to  
attend at  
adjourned  
sitting.

Locking up  
jury.

296. The High Court may, from time to time, make rules as to keeping the jury together during a trial before such Court lasting for more than one day; and, subject to such rules, the presiding Judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the Court, or whether they shall be allowed to return to their respective homes.

*F.—Conclusion of Trial in Cases tried by Jury.*

297. In cases tried by jury, when the case for the defence and the prosecutor's reply (if any) are concluded, the Court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

Charge to  
jury.

298. (1) In such cases it is the duty of the Judge—

Duty of  
Judge.

- (a) to decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by or on behalf of the parties; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;
- (b) to decide upon the meaning and construction of all documents given in evidence at the trial;
- (c) to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;
- (d) to decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

(2) The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

*Illustrations.*

(a) It is proposed to prove a statement made by a person not being a witness in the case on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(b) It is proposed to give secondary evidence of a document the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

(Part VI.—*Proceedings in Prosecutions.* Chap. XXIII.—*Of Trials before High Courts and Courts of Session.* Secs. 299-303.)

Duty of jury.

299. It is the duty of the jury—

- (a) to decide which view of the facts is true and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned ;
- (b) to determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not ;
- (c) to decide all questions which according to law are to be deemed questions of fact,
- (d) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

*Illustrations.*

(a) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A. ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true, and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong and whether they do or do not agree with it.

(b) The question is whether a person entertained a reasonable belief on a particular point,—whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

Retirement  
to consider.

300. In cases tried by jury, after the Judge has finished his charge, the jury may retire to consider their verdict.

Except with the leave of the Court, no person other than a juror shall speak to, or hold any communication with, any member of such jury.

Delivery of  
verdict.

301. When the jury have considered their verdict, the foreman shall inform the Judge what is their verdict, or what is the verdict of a majority.

Procedure  
where jury  
differ.

302. If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

Verdict to be  
given on  
each charge.  
Judge may  
question  
jury.

303. (1) Unless otherwise ordered by the Court, the jury shall return a verdict on all the charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is.



(Part VI.—*Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs. 304-307.*)

(2) Such questions and the answers to them shall be recorded.

Questions  
and answers  
to be re-  
corded.

**304.** When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended

Amending  
verdict.

**305.** (1) When in a case tried before a High Court the jury are unanimous in their opinion, or when as many as six are of one opinion and the Judge agrees with them, the Judge shall give judgment in accordance with such opinion.

Verdict in  
High Court  
when to  
prevail.

(2) When in any such case the jury are satisfied that they will not be unanimous, but six of them are of one opinion, the foreman shall so inform the Judge.

(3) If the Judge disagrees with the majority, he shall at once discharge the jury.

Discharge  
of jury in  
other cases

(4) If there are not so many as six who agree in opinion, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

**306.** (1) When in a case tried before the Court of Session the Judge does not think it necessary to express disagreement with the verdict of the jurors or of a majority of the jurors, he shall give judgment accordingly.

Verdict in  
Court of  
Session when  
to prevail.

(2) If the accused is acquitted, the Judge shall record judgment of acquittal. If the accused is convicted, the Judge shall pass sentence on him according to law.

**307.** (1) If in any such case the Judge disagrees with the verdict of the jurors, or of a majority of the jurors, on all or any of the charges on which the accused has been tried, and is clearly of opinion that it is necessary for the ends of justice to submit the case to the High Court, he shall submit the case accordingly, recording the grounds of his opinion, and, when the verdict is one of acquittal, stating the offence which he considers to have been committed.

Procedure  
where Ses-  
sions Judge  
disagrees  
with verdict.

(2) Whenever the Judge submits a case under this section, he shall not record judgment of acquittal or of conviction on any of the charges on which the accused has been tried, but he may either remand the accused to custody or admit him to bail.

(3) In dealing with the case so submitted the High Court may exercise any of the powers which it may exercise on an appeal, and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury, acquit or convict the accused of any offence of which the jury could have convicted him upon the charge

(Part VI.—Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs. 308-310.)

framed and placed before it; and, if it convicts him, may pass such sentence as might have been passed by the Court of Session.

*G.—Re-trial of Accused after Discharge of Jury.*

Re-trial of  
accused after  
discharge of  
jury.

308. Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury unless the Judge considers that he should not be re-tried, in which case the Judge shall make an entry to that effect on the charge, and such entry shall operate as an acquittal.

*H.—Conclusion of Trial in Cases tried with Assessors.*

Delivery of  
opinions of  
assessors.

309. (1) When, in a case tried with the aid of assessors, the case for the defence and the prosecutor's reply (if any) are concluded, the Court may sum up the evidence for the prosecution and defence, and shall then require each of the assessors to state his opinion orally, and shall record such opinion.

Judgment.

(2) The Judge shall then give judgment, but in doing so shall not be bound to conform to the opinions of the assessors.

(3) If the accused is convicted, the Judge shall pass sentence on him according to law.

*I.—Procedure in Case of Previous Conviction.*

Procedure  
in case of  
previous con-  
viction.

310. In the case of a trial by jury or with the aid of assessors, where the accused is charged with an offence committed after a previous conviction for any offence, the procedure laid down in sections 271, 286, 305, 306 and 309 shall be modified as follows:—

- (a) the part of the charge stating the previous conviction shall not be read out in Court, nor shall the accused be asked whether he has been previously convicted as alleged in the charge unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence:
- (b) if he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted as alleged in the charge:
- (c) if he answers that he has been so previously convicted, the Judge may proceed to pass sentence on him accordingly; but, if he denies that he has been so previously convicted, or refuses to, or does not, answer such question, the jury, or the Court and the assessors (as the case may be), shall then hear evidence concerning such previous

(Part VI.—Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs 311-314.)

conviction, and in such case (where the trial is by jury) it shall not be necessary to swear the jurors again.

311. Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Indian Evidence Act, 1872.<sup>1</sup>

When evidence of previous conviction may be given.

*J.—List of Jurors for High Court, and summoning Jurors for that Court.*

312. The names of not more than four hundred persons shall at any one time be entered in the special jurors' list.

Number of special jurors.

313. (1) The Clerk of the Crown shall, before the first day of April in each year, and subject to such rules as the High Court from time to time prescribes, prepare—

Lists of common and special jurors.

(a) a list of all persons liable to serve as common jurors; and

(b) a list of persons liable to serve as special jurors only.

(2) Regard shall be had, in the preparation of the latter list, to the property, character and education of the persons whose names are entered therein.

(3) No person shall be entitled to have his name entered in the special jurors' list merely because he may have been entered in the special jurors' list for a previous year.

(4) The Governor General in Council in the case of the High Court at Fort William in Bengal, and, in the case of other High Courts, the Local Government, may exempt any salaried officer of Government from serving as a juror.

(5) The Clerk of the Crown shall, subject to such rules as aforesaid, have full discretion to prepare the said lists as seems to him to be proper, and there shall be no appeal from, or review of, his decision.

Discretion of officer preparing lists.

314. (1) Preliminary lists of persons liable to serve as common jurors and as special jurors, respectively, signed by the Clerk of the Crown, shall be published once in the local official Gazette before the fifteenth day of April next after their preparation.

Publication of lists, preliminary and revised.

(2) Revised lists of persons liable to serve as common jurors and special jurors, respectively, signed as aforesaid, shall be published once in the local official Gazette before the first day of May next after their preparation.

(3) Copies of the said lists shall be affixed to some conspicuous part of the court-house.

<sup>1</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 222.

(Part VI.—*Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs. 315-318.*)

Number of jurors to be summoned in presidency-towns.

**315.** (1) Out of the persons named in the revised lists aforesaid, there shall be summoned for each sessions in each presidency-town at least twenty-seven of those who are liable to serve on special juries, and fifty-four of those who are liable to serve on common juries.

(2) No person shall be so summoned more than once in six months unless the number cannot be made up without him.

Supplementary summons

(3) If, during the continuance of any sessions, it appears that the number of persons so summoned is not sufficient, such number as may be necessary of other persons liable to serve as aforesaid shall be summoned for such sessions.

Summoning jurors outside the presidency-towns.

**316.** Whenever a High Court has given notice of its intention to hold sittings at any place outside the presidency-towns for the exercise of its original criminal jurisdiction, the Court of Session at such place shall, subject to any direction which may be given by the High Court, summon a sufficient number of jurors from its own list, in the manner hereinafter prescribed for summoning jurors to the Court of Session.

Military jurors.

**317.** (1) In addition to the persons so summoned as jurors, the said Court of Session shall, if it thinks needful, after communication with the commanding officer, cause to be summoned such number of commissioned and non-commissioned officers in Her Majesty's Army resident within ten miles of its place of sitting as the Court considers to be necessary to make up the juries required for the trial of persons charged with offences before the High Court as aforesaid.

(2) All officers so summoned shall be liable to serve on such juries notwithstanding anything contained in this Code; but no such officer shall be summoned whom his commanding officer desires to have excused on the ground of urgent military duty, or for any other special military reason.

Failure of jurors to attend.

**318.** Any person summoned under section 315, section 316 or section 317, who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Judge, or fails to attend after an adjournment of the Court after being ordered to attend, shall be deemed guilty of a contempt and be liable, by order of the Judge, to such fine as he thinks fit; and, in default of payment of such fine, to imprisonment for a term not exceeding six months in the civil jail until the fine is paid:

Provided that the Court may in its discretion remit any fine or imprisonment so imposed.

(Part VI.—Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs. 319-321.)

*K.—List of Jurors and Assessors for Court of Session, and summoning Jurors and Assessors for that Court.*

319. All male persons between the ages of twenty-one and sixty shall, except as next hereinafter mentioned, be liable to serve as jurors or assessors at any trial held within the district in which they reside, or, if the Local Government, on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed. Liability to serve as jurors or assessors.

320. The following persons are exempt from liability to serve as jurors or assessors, namely :— Exemptions.

- (a) officers in civil employ superior in rank to a District Magistrate;
- (b) salaried Judges ;
- (c) Commissioners and Collectors of Revenue or Customs ;
- (d) police-officers and persons engaged in the Preventive Service in the Customs Department ;
- (e) persons engaged in the collection of the revenue whom the Collector thinks fit to exempt on the ground of official duty ;
- (f) persons actually officiating as priests or ministers of their respective religions ;
- (g) persons in Her Majesty's Army, except when, by any law in force for the time being, they are specially made liable to serve as jurors or assessors ;
- (h) surgeons and others who openly and constantly practise the medical profession ;
- (i) legal practitioners (as defined by the Legal Practitioners Act, 1879)<sup>1</sup> in actual practice ;
- (j) persons employed in the Post-office and Telegraph Departments ;
- (k) persons exempted from personal appearance in Court under the provisions of the Code of Civil Procedure,<sup>2</sup> sections 640 and 641 ;
- (l) other persons exempted by the Local Government from liability to serve as jurors or assessors.

2.

321. (1) The Sessions Judge, and the Collector of the district or such other officer as the Local Government appoints in this behalf, shall prepare and make out in alphabetical order a list of persons liable to serve as jurors or assessors and qualified in the judgment of the Sessions Judge and Collector or other officer as aforesaid to serve as such, and not likely to be successfully objected to under section 278, clauses (b) to (h), both inclusive.

**List of jurors and assessors.**

<sup>1</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 257.

<sup>2</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

(Part VI.—*Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs. 322-325.*)

(2) The list shall contain the name, place of abode and quality or business of every such person ; and, if the person is an European or an American, the list shall mention the race to which he belongs.

Publication  
of list.

322. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the court-houses of the District Magistrate and of the District Court, and extracts therefrom in some conspicuous place in the town or towns in or near which the persons named in the extract reside.

Objections to  
list

323. To every such copy or extract shall be subjoined a notice stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid, at the sessions court-house, and at a time to be mentioned in the notice.

Revision of  
list.

324. (1) For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror or as an assessor, or who may establish his right to any exemption from service given by section 320 and insert the name of any person omitted from the list whom they deem qualified for such service.

(2) In the event of a difference of opinion between the Sessions Judge and the Collector or other officer as aforesaid, the name of the proposed juror or assessor shall be omitted from the list.

(3) A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid and sent to the Court of Session.

(4) Any order of the Sessions Judge and Collector or other officer as aforesaid in preparing and revising the list shall be final.

(5) Any exemption not claimed under this section shall be deemed to be waived until the list is next revised.

Annual revision  
of list.

(6) The list so prepared and revised shall be again revised once in every year.

(7) The list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Preparation  
of list of  
special jurors.

325. In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector or

(Part VI.—*Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs. 326-330.*)

other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of his liability to serve as an ordinary juror in cases not tried by special jury.

326. (1) The Sessions Judge shall ordinarily, seven days at least before the day which he may from time to time fix for holding the sessions, send a letter <sup>1</sup> to the District Magistrate requesting him to summon as many persons named in the said revised list or the said special list as seem to the Sessions Judge to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any such trial.

District Magistrate to summon jurors and assessors.

(2) The names of the persons to be summoned shall be drawn by lot in open Court, excluding those who have served within six months unless the number cannot be made up without them; and the names so drawn shall be specified in the said letter.

327. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section 326, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever for other reasons such direction is found to be necessary.

Power to summon another set of jurors or assessors.

328. Every summons <sup>2</sup> to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor, as the case may be, at a time and place to be therein specified.

Form and contents of summons.

329. When any person summoned to serve as a juror or assessor is in the service of Government or of a Railway Company, the Court to serve in which he is so summoned may excuse his attendance if it appears on the representation of the head of the office in which he is employed that he cannot serve as a juror or assessor, as the case may be, without inconvenience to the public.

When Government or Railway servant may be excused.

330. (1) The Court of Session may, for reasonable cause, excuse any juror or assessor from attendance at any particular session.

Court may excuse attendance of juror or assessor. Court may relieve special jurors from liability to serve again as jurors for twelve months.

(2) The Court of Session may, if it shall think fit at the conclusion of any trial by special jury, direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.

<sup>1</sup> See Sch. V, Form XXXII, *infra*.

<sup>2</sup> See Sch. V, Form XXXIII, *infra*.

(Part VI.—Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Secs. 331-335.)

List of jurors and assessors attending.

331. (1) At each session the said Court shall cause to be made a list of the names of those who have attended as jurors and assessors at such session.

(2) Such list shall be kept with the list of the jurors and assessors as revised under section 324.

(3) A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

Penalty for non-attendance of juror or assessor.

332. (1) Any person summoned to attend as a juror or as an assessor who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court, after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding one hundred rupees.

(2) Such fine shall be levied by the District Magistrate by attachment and sale of any moveable property belonging to such juror or assessor within the local limits of the jurisdiction of the Court making the order.

(3) For good cause shewn, the Court may remit or reduce any fine so imposed.

(4) In default of recovery of the fine by attachment and sale, such juror or assessor may, by order of the Court of Session, be imprisoned in the civil jail for the term of fifteen days, unless such fine is paid before the end of the said term.

#### *L.—Special Provisions for High Courts.*

Power of Advocate General to stay prosecution.

333. At any stage of any trial before a High Court under this Code, before the return of the verdict, the Advocate General may, if he thinks fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

Time of holding sittings.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

Place of holding sittings.

335. (1) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the Governor General in Council in the case of the High Court at Fort William, or the Local Government in the case of the other High Courts, may direct.

(2) But it may from time to time, in the case of the High Court at Fort



(Part VI.—Proceedings in Prosecutions. Chap. XXIII.—Of Trials before High Courts and Courts of Session. Sec. 336. Chap. XXIV.—General Provisions as to Inquiries and Trials. Sec. 337.)

William with the consent of the Governor General in Council, and in all other cases with the consent of the Local Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

(3) Such officer as the Chief Justice directs shall give notice beforehand in the local official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court. Notice of sittings.

336. The High Court may direct that all European British subjects and persons liable to be tried by it under section 214, who have been committed for trial by it within certain specified districts or during certain specified periods of the year, shall be tried at the ordinary place of sitting of the Court, or direct that they shall be tried at a particular place<sup>1</sup> named. Place of trial of European British subjects

## CHAPTER XXIV.

### GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS.

337.<sup>2</sup> (1) In the case of any offence<sup>3</sup> triable exclusively by the Court of Session or High Court, the District Magistrate, a Presidency Magistrate, any Magistrate of the first class inquiring into the offence, or, with the sanction of the District Magistrate, any other Magistrate, may, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence under inquiry, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to such offence, and to every other person concerned, whether as principal or abettor, in the commission thereof. Tender of pardon to accomplice.

(2) Every person accepting a tender under this section shall be examined as a witness in the case.

(3) Such person, if not on bail, shall be detained in custody until the

<sup>1</sup> As to the Court of the Recorder of Rangoon, such a direction may be given by the Local Government notwithstanding the provisions of this section, *see* s. 37 (4) of the Lower Burma Courts Act, 1889 (XI of 1889), printed, Burma Code, Ed. 1899.

<sup>2</sup> As to tender of pardon to an accomplice in Upper Burma and trial of the case by the Magistrate himself except in cases affecting European British subjects, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Sch., ss. VIII and XVII, printed, Burma Code, Ed. 1899.

<sup>3</sup> In places where the Panjab Frontier Crimes Regulation, 1887 (IV of 1887), is in force, the words "triable exclusively by the Court of Session or High Court" are to be omitted, *see* s. 9 of that Regulation, printed, Panjab Code, Ed. 1888, p. 395.

(Part VI.—*Proceedings in Prosecutions. Chap. XXIV.—General Provisions as to Inquiries and Trials. Secs. 338-342.*)

termination of the trial<sup>1</sup> by the Court of Session or High Court, as the case may be.

(4) Every Magistrate, other than a Presidency Magistrate, who tenders a pardon under this section, shall record his reasons for so doing; and, when any Magistrate has made such tender and examined the person to whom it has been made, he shall not try the case himself, although the offence which the accused appears to have committed may be triable by such Magistrate.

Power to  
direct tender  
of pardon.

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

Commitment  
of person to  
whom pardon  
has been  
tendered.

339. (1) Where a pardon has been tendered under section 337 or section 338, and any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

(2) The statement made by a person who has accepted a tender of pardon may be given in evidence against him when the pardon has been forfeited under this section.

(3) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

Right of  
accused to be  
defended.

340. Every person accused before any Criminal Court may of right be defended by a pleader.

Procedure  
where ac-  
cused does  
not under-  
stand pro-  
ceedings.

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

Power to  
examine the  
accused.

342. (1) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial, without previously warning the accused, put such

<sup>1</sup> In places where the Panjab Frontier Crimes Regulation, 1887 (IV of 1887), is in force, the words "by the Court of Session or High Court, as the case may be," are to be omitted, see s. 9 of the Regulation, printed, Panjab Code, Ed. 1888, p. 395.

(Part VI.—*Proceedings in Prosecutions. Chap. XXIV.—General Provisions as to Inquiries and Trials. Secs. 343-345.*)

questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence.

(2) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them; but the Court and the jury (if any) may draw such inference from such refusal or answers as it thinks just<sup>1</sup>

(3) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

(4) No oath shall be administered to the accused.

**343.** Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

No influence to be used to induce disclosures.

<sup>2</sup> **344.** (1) If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Power to postpone or adjourn proceedings.

Provided that no magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

Remand.

(2) Every order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or magistrate.

*Explanation.*—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Reasonable cause for remand.

<sup>3</sup> **345.** (1) The offences punishable under the sections of the Indian Penal Code<sup>4</sup> described in the first two columns of the table next following may

Compounding offences.

<sup>1</sup> See the Indian Evidence Act, 1872, s. 114, Illustration (A), printed, General Acts, Vol. II, Ed. 1898, p. 222.

<sup>2</sup> Cf. the Indictable Offences Act, 1848 (11 & 12 Vict., c. 42), s. 21.

<sup>3</sup> For the section applicable instead of this section to hill-tribes to which the Kachin Hill-tribes Regulation, 1875 (I of 1895), and the Chin Hills Regulation, 1896 (V of 1896), has been applied, see Notifications Nos. 14 and 15 respectively, dated 30th June, 1898, Burma Gazette, 1898, Pt. I, p. 322.

<sup>4</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part VI.—Proceedings in Prosecutions. Chap. XXIV.—General Provisions as to Inquiries and Trials. Sec. 345.)

be compounded by the persons mentioned in the third column of that table:—

Offence.	Sections of Indian Penal Code applicable.	Person by whom offence may be compounded.
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Causing hurt. . . . .	323, 331	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Assault or use of criminal force. . . .	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour . . . .	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass . . . . .	417	The person in possession of the property trespassed upon.
House-trespass . . . . .	448	
Criminal breach of contract of service .	490, 491, 492	The person with whom the offender has contracted.
Adultery . . . . .	497	The husband of the woman.
Enticing or taking away or detaining with a criminal intent a married woman.	498	
Defamation . . . . .	500	The person defamed.
Printing or engraving matter knowing it to be defamatory.	501	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation, except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.

(Part VI.—Proceedings in Prosecutions. Chap. XXIV.—General Provisions as to Inquiries and Trials. Secs. 346-347.)

(2) The offences of causing hurt and grievous hurt, punishable under section 324, section 325, section 335, section 337, or section 338 of the Indian Penal Code,<sup>1</sup> may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the person to whom the hurt has been caused. XLV of 1860.

(3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(4) When the person who would otherwise be competent to compound an offence under this section is a minor, an idiot or a lunatic, any person competent to contract on his behalf may compound such offence.

(5) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

(6) The composition of an offence under this section shall have the effect of an acquittal of the accused.

(7) No offence shall be compounded except as provided by this section.

346. (1) If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency-towns, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate directs. Procedure of Provincial Magistrate in cases which he cannot dispose of.

(2) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

347. (1) If in any inquiry before a Magistrate, or in any trial before a Magistrate before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall stop further proceedings and commit the accused under the provisions hereinbefore contained. Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.

(2) If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part VI.—Proceedings in Prosecutions. Chap. XXIV.—General Provisions as to Inquiries and Trials. Secs. 348-350.)

Trial of persons previously convicted of offence, against coinage, stamp-law or property.

348. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code <sup>1</sup> with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards, shall be committed to the Court of Session or High Court, as the case may be, unless the Magistrate before whom the proceedings are pending is of opinion that he can himself pass an adequate sentence if the accused is convicted :

XLV of 1860

Provided that, if the District Magistrate has been invested with powers under section 30, the case may be transferred to him instead of being committed to the Court of Session.

Procedure when Magistrate cannot pass sentence sufficiently severe.

349. (1) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate or Subdivisional Magistrate to whom he is subordinate.

(2) The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case, and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law :

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

350. (1) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself : or he may re-summon the witnesses and recommence the inquiry or trial :

Provided as follows :—

(a) in any trial the accused may, when the second Magistrate commences

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part VI.—*Proceedings in Prosecutions.* Chap. XXIV.—*General Provisions as to Inquiries and Trials* Secs. 351-352. Chap. XXV.—*Of the Mode of taking and recording Evidence in Inquiries and Trials.* Sec. 353.)

his proceedings, demand that the witnesses or any of them be re-summoned and re-heard;

(b) the High Court or, in cases tried by Magistrates subordinate to the District Magistrate, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was held, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

(2) Nothing in this section applies to cases in which proceedings have been stayed under section 346.

**351.** (1) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inquiry into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned.

Detention of offenders attending Court.

(2) When the detention takes place in the course of an inquiry under Chapter XVIII or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard.

**352.** The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Courts to be open.

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

## CHAPTER XXV.

### OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

**353.** Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

Evidence to be taken in presence of accused.

(Part VI.—Proceedings in Prosecutions. Chap. XXV.—Of the Mode of taking and recording Evidence in Inquiries and Trials. Secs. 354-356.)

Manner of recording evidence outside presidency towns.

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

Record in summons-cases and in trials of certain offences by first and second class Magistrates.

<sup>1</sup> 355. (1) In summons-cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-section (1) of section 260, clauses (b) to (m), both inclusive, when tried by a Magistrate of the first or second class, and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

(2) Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

(3) If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same; and such memorandum shall form part of the record.

Record in other cases outside presidency towns.

<sup>1</sup> 356. (1) In all other trials before Courts of Session and Magistrates (other than Presidency Magistrates) and in all inquiries under Chapters XII and XVIII, the evidence of each witness shall be taken down in writing in the language of the Court, by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence and shall be signed by the Magistrate or Sessions Judge.

Evidence given in English.

(2) When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand, and, unless the accused is familiar with English, or the language of the Court is English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

Memorandum when evidence not taken down by the Magistrate or Judge himself.

(3) In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

(4) If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to make it.

<sup>1</sup> Evidence recorded by Forest Officers under the Upper Burma Forest Regulation, 1898 (V of 1898), in accordance with ss. 355, 356 or 357 of the Code, are admissible in subsequent trials before Magistrates, see s. 71 (2) of that Regulation, printed, Burma Code, Ed. 1899.



(Part VI.—Proceedings in Prosecutions. Chap. XXV.—Of the Mode of taking and recording Evidence in Inquiries and Trials. Secs. 357-360.)

<sup>1</sup> 357. (1) The Local Government may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates, the evidence of each witness shall, in the cases referred to in section 356, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother-tongue, unless he is prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so and shall cause the evidence to be taken down in writing from his dictation in open Court.

Language of record of evidence.

(2) The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record :

Provided that the Local Government may direct the Sessions Judge or Magistrate to take down the evidence in the English language, or in the language of the Court, although such language is not his mother-tongue.

358. In cases of the kind mentioned in section 355, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section 356, or, if within the local limits of the jurisdiction of such Magistrate the Local Government has made the order referred to in section 357, in the manner provided in the same section.

Option to Magistrate in cases under section 355.

359. (1) Evidence taken under section 356 or section 357 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

Mode of recording evidence under section 356 or section 357.

(2) The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down, any particular question and answer.

360 (1) As the evidence of each witness taken under section 356 or section 357 is completed, it shall be read over to him in the presence of the accused, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

Procedure in regard to such evidence when completed.

(2) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

(3) If the evidence is taken down in a language different from that in which it has been given, and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

<sup>1</sup> See the footnote on the preceding page.

(Part VI.—Proceedings in Prosecutions. Chap. XXV.—Of the Mode of taking and recording Evidence in Inquiries and Trials. Secs. 361-364.)

Interpreta-  
tion of evi-  
dence to  
accused or his  
pleader.

**361.** (1) Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

(2) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader it shall be interpreted to such pleader in that language.

(3) When documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

Record of  
evidence in  
Presidency  
Magistrates'  
Courts.

**362.** (1) In every case in which a Presidency Magistrate imposes a fine exceeding two hundred rupees, or imprisonment for a term exceeding six months, he shall either take down the evidence of the witnesses with his own hand, or cause it to be taken down in writing from his dictation in open Court. All evidence so taken down shall be signed by the Magistrate and shall form part of the record.

(2) Evidence so taken down shall ordinarily be recorded in the form of a narrative, but the Magistrate may, in his discretion, take down, or cause to be taken down, any particular question or answer.

(3) Sentences passed under section 35 on the same occasion shall, for the purposes of this section, be considered as one sentence.

Remarks re-  
specting de-  
meanour of  
witness.

**363.** When a Sessions Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Examination  
of accused  
how recorded.

**364.** (1) Whenever the accused is examined by any Magistrate, or by any Court other than a High Court established by Royal Charter or the Chief Court of the Punjab, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or, if that is not practicable, in the language of the Court or in English: and such record shall be shown or read to him, or, if he does not understand the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(2) When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge of such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing, and that the record contains a full and true account of the statement made by the accused.

(3) In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, unless he is a Presi-

(Part VI.—*Proceedings in Prosecutions. Chap. XXV.—Of the Mode of taking and recording Evidence in Inquiries and Trials. Sec. 365. Chap. XXVI.—Of the Judgment. Sec. 366.*)

gency Magistrate, as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with the latter language; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

(4) Nothing in this section shall be deemed to apply to the examination of an accused person under section 263.

365. Every High Court established by Royal Charter and the Chief Court of the Punjab may, from time to time, by general rule, prescribe the manner in which evidence shall be taken down in cases coming before the Court, and the Judges of such Court shall take down the evidence or the substance thereof in accordance with the rule (if any) so prescribed.

Record of  
evidence in  
High Court.

## CHAPTER XXVI.

### OF THE JUDGMENT.

366. (1) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,—

Mode of de-  
livering  
judgment.

(a) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(b) in the language of the Court, or in some other language which the accused or his pleader understands:

Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence.

(2) The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.

(3) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or

(Part VI.—Proceedings in Prosecutions. Chap. XXVI.—Of the Judgment.  
Secs. 367-370.)

defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(4) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

Language of  
judgment  
Contents of  
judgment.

367. (1) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon and the reasons for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it.

(2) It shall specify the offence (if any) of which, and the section of the Indian Penal Code<sup>1</sup> or other law under which, the accused is convicted, and XLV of the punishment to which he is sentenced.

Judgment in  
alternative.

(3) When the conviction is under the Indian Penal Code,<sup>1</sup> and it is XLV of doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative.

(4) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(5) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed:

Provided that, in trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury.

Sentence of  
death.

368. (1) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Sentence of  
transporta-  
tion.

(2) No sentence of transportation shall specify the place to which the person sentenced is to be transported.

Court not to  
alter judg-  
ment.

369. No Court, other than a High Court, when it has signed its judgment, shall alter or review the same, except as provided in sections 395 and 484 or to correct a clerical error.

Presidency  
Magistrate's  
judgment.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars:—

- (a) the serial number of the case;
- (b) the date of the commission of the offence;
- (c) the name of the complainant (if any);

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Part VI.—Proceedings in Prosecutions. Chap. XXVI.—Of the Judgment. Secs. 371-373. Chap. XXVII.—Of the Submission of Sentences for Confirmation. Secs. 374-375.)

- (d) the name of the accused person, and (except in the case of an European British subject) his parentage and residence ;
- (e) the offence complained of or proved ;
- (f) the plea of the accused and his examination (if any) ;
- (g) the final order ;
- (h) the date of such order ; and
- (i) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

371. (1) On the application of the accused a copy of the judgment, or, when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case, be given free of cost.

Copy of judgment, etc., to be given to accused on application.

(2) In trials by jury in a Court of Session, a copy of the heads of the charge to the jury shall, on the application of the accused, be given to him without delay and free of cost.

(3) When the accused is sentenced to death by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

Case of person sentenced to death.

372. The original judgment shall be filed with the record of proceedings, and, where the original is recorded in a different language from that of the Court, and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

Judgment when to be translated.

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

Court of Session to send copy of finding and sentence to District Magistrate.

## CHAPTER XXVII.

### OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

374. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court<sup>1</sup> and the sentence shall not be executed unless it is confirmed by the High Court.

Sentence of death to be submitted by Court of Session.

375. (1) If when such proceedings are submitted the High Court thinks that a further inquiry should be made into, or additional evidence taken upon

Power to direct further inquiry to be

<sup>1</sup> See Sec. V, Form XXXIV, *infra*.

(Part VI.—*Proceedings in Prosecutions. Chap. XXVII.—Of the Submission of Sentences for Confirmation. Secs. 376-380.*)

made or additional evidence to be taken.

any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

(2) Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors or assessors, and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

(3) When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

Power of High Court to confirm sentence or annul conviction.

**376.** In any case submitted under section 374, whether tried with the aid of assessors or by jury, the High Court—

(a) may confirm the sentence, or pass any other sentence warranted by law, or

(b) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(c) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

Confirmation or new sentence to be signed by two Judges.

**377.** In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more Judges, be made, passed and signed by at least two of them.

Procedure in case of difference of opinion.

**378.** When any such case is heard before a Bench of Judges and such Judges are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge, and such Judge, after such hearing as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion.

Procedure in cases submitted to High Court for confirmation.

**379.** In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

Procedure in cases submitted by Magistrate

**380.** Where proceedings are submitted to a Magistrate of the first class or a Subdivisional Magistrate as provided by section 562, such Magistrate may thereupon pass such sentence or make such order as he might have passed or

(Part VI.—Proceedings in Prosecutions. Chap. XXVIII.—Of Execution.  
Secs. 381-387.)

made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary, he may make such inquiry or take such evidence himself or direct such enquiry or evidence to be made or taken.

not empowered to act under section 562.

## CHAPTER XXVIII.

### OF EXECUTION.

381. When a sentence of death passed by a Court of Session is submitted to the High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant<sup>1</sup> or taking such other steps as may be necessary.

Execution of order passed under section 376.

382. If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may, if it thinks fit, commute<sup>2</sup> the sentence to transportation for life.

Postponement of capital sentence on pregnant woman. Execution of sentences of transportation or imprisonment in other cases.

383. Where the accused is sentenced to transportation or imprisonment in cases other than those provided for by section 381, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is, or is to be, confined, and, unless the accused is already confined in such jail, shall forward him to such jail, with the warrant.

384. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail or other place in which the prisoner is, or is to be, confined.

Direction of warrant for execution.

385. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

Warrant with whom to be lodged.

<sup>3</sup> 386. Whenever an offender is sentenced to pay a fine, the Court passing the sentence may, in its discretion, issue a warrant<sup>2</sup> for the levy of the amount, by distress and sale of any moveable property belonging to the offender, although the sentence directs that, in default of payment of the fine, the offender shall be imprisoned.

Warrant for levy of fine.

<sup>3</sup> 387. Such warrant may be executed within the local limits of the jurisdiction of such Court, and it shall authorise the distress and sale of any such

Effect of such warrant

<sup>1</sup> See Sch. V, Forms XXXV and XXXVI, *infra*.

<sup>2</sup> See Sch. V, Form XXXVI, *infra*.

<sup>3</sup> The provisions of ss. 386 to 389 have been declared to apply to fines imposed (1) under the Andaman and Nicobar Islands Regulation, 1876 (III of 1876), *see* s. 35 as amended by the Andaman and Nicobar Islands Regulation, 1884 (I of 1884), s. 7, and (2) under the Arakan Hill District Laws Regulation, 1874 (IX of 1874), *see* s. 18 of the Regulation, printed, Burma Code Ed. 1899, and s. 3 (1), *supra*.

(Part VI.—Proceedings in Prosecutions. Chap. XXVIII.—Of Execution.  
Secs. 388-391.)

property without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

Suspension  
of execution  
of sentence  
of imprison-  
ment.

<sup>1</sup> 388. (1) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the Court issues a warrant under section 386, it may suspend the execution of the sentence of imprisonment and may release the offender on his executing a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before such Court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond; and in the event of the fine not having been realized the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) In any case in which an order for the payment of money has been made, on non-recovery of which imprisonment may be awarded, and the money is not paid forthwith, the Court may require the person ordered to make such payment to enter into a bond as prescribed in sub-section (1), and in default of his so doing may at once pass sentence of imprisonment as if the money had not been recovered.

Who may  
issue war-  
rant.

389. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in office.

Execution of  
sentence of  
whipping  
only.

390. When the accused is sentenced to whipping only, the sentence shall be executed at such place and time as the Court may direct.

Execution of  
sentence of  
whipping, in  
addition to  
imprison-  
ment.

391. (1) When the accused is sentenced to whipping in addition to imprisonment in a case which is subject to appeal, the whipping shall not be inflicted until fifteen days from the date of the sentence, or, if an appeal is made within that time, until the sentence is confirmed by the Appellate Court; but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

(2) The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.

(3) No accused person shall be sentenced to whipping in addition to imprisonment when the term of imprisonment to which he is sentenced, is less than three months.

<sup>1</sup> See third footnote on preceding page.



(Part VI. — Proceedings in Prosecutions. Chap. XXVIII. — Of Execution.  
Secs. 392-396.)

392. (1) In the case of a person of or over sixteen years of age whipping shall be inflicted with a light rattan not less than half an inch in diameter, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in such mode, and on such part of the person, and with such instrument, as the Local Government directs.<sup>1</sup>

Mode of  
inflicting  
punishment.

(2) In no case shall such punishment exceed thirty stripes.

Limit of  
number of  
stripes.

393. No sentence of whipping shall be executed by instalments: and none of the following persons shall be punishable with whipping (namely):—

Not to be  
executed by  
instalments.  
Exemptions.

(a) females;

(b) males sentenced to death or to transportation, or to penal servitude, or to imprisonment for more than five years;

(c) males whom the Court considers to be more than forty-five years of age.

394. (1) The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

Whipping  
not to be  
inflicted if  
offender  
not in fit  
state of  
health.  
Stay of  
execution.

(2) If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

395. (1) In any case in which, under section 394, a sentence of whipping is, wholly or partially, prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

Procedure if  
punishment  
cannot be  
inflicted  
under section  
394.

(2) Nothing in this section shall be deemed to authorise any Court to inflict imprisonment for a term exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

396. (1) When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions

Execution  
of sentences  
on escaped  
convicts.

<sup>1</sup> For manner in which whipping shall be inflicted in Burma, see Burma Gazette, 1898, Pt. I, p. 307.

(Part VI.—Proceedings in Prosecutions. Chap. XXVIII.—Of Execution.  
Secs. 397-398.)

hereinbefore contained, take effect immediately, and if of imprisonment, penal servitude or transportation, shall take effect according to the following rules, that is to say :—

(2) If the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

(3) When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, penal servitude or transportation, as the case may be, for a further period equal to that which, at the time of his escape, remained unexpired of his former sentence.

*Explanation.*—For the purposes of this section—

- (a) a sentence of transportation or penal servitude shall be deemed severer than a sentence of imprisonment;
- (b) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement; and
- (c) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

Sentence on  
offender  
already  
sentenced  
for another  
offence.

**397.** When a person already undergoing a sentence of imprisonment, penal servitude or transportation is sentenced to imprisonment, penal servitude or transportation, such imprisonment, penal servitude or transportation shall commence at the expiration of the imprisonment, penal servitude or transportation to which he has been previously sentenced :

Provided that, if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction is one of transportation the Court may, in its discretion, direct that the latter sentence shall commence immediately, or at the expiration of the imprisonment to which he has been previously sentenced.

Saving as to  
sections 396  
and 397.

**398.** (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence, or further substantive sentences, of imprisonment,

(Part VI.—Proceedings in Prosecutions. Chap. XXVIII.—Of Execution. Secs. 399-400. Chap. XXIX.—Of Suspensions, Remissions and Commutations of Sentences. Sec. 401.)

transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

<sup>1</sup> 399. (1) When any person under the age of fifteen years is sentenced by any Criminal Court to imprisonment for any offence, the Court may direct that such person, instead of being imprisoned in a criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry or which is kept by a person willing to obey such rules as the Local Government prescribes with regard to the discipline and training of persons confined therein.

Confinement of youthful offenders in reformatories

(2) All persons confined under this section shall be subject to the rules so prescribed.

(3) This section shall not apply to any place in which the Reformatory Schools Act, 1897, is for the time being in force.

400. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

Return of warrant on execution of sentence.

## CHAPTER XXIX.

### OF SUSPENSIONS, REMISSIONS AND COMMUTATIONS OF SENTENCES.

401. (1) When any person has been sentenced to punishment for an offence, the Governor General in Council or the Local Government may at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.

Power to suspend or remit sentences

(2) Whenever an application is made to the Governor General in Council or the Local Government for the suspension or remission of a sentence, the Governor General in Council or the Local Government, as the case may be, may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion.

<sup>1</sup> S. 399 is only in force in Coorg and the Punjab, *see* ss. 1 (3) and 3 of the Reformatory Schools Act, 1897 (VIII of 1897), and *supra*, s. 3 (1). It will cease to be in force in those provinces also on the extension to them of that Act, *see* s. 3 of the Act, printed, *supra*, p. 304.

(Part VI.—Proceedings in Prosecutions Chap. XXIX.—Of Suspensions, Remissions and Commutations of Sentences Sec. 402. Chap. XXX.—Of previous Acquittals or Convictions. Sec. 403.)

(3) If any condition on which a sentence has been suspended or remitted, is, in the opinion of the Governor General in Council or of the Local Government, as the case may be, not fulfilled, the Governor General in Council or the Local Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted, may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section, may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(5) Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites or remissions of punishment.

(6) The Governor General in Council and the Local Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with.

Power to  
commute  
punishment

402. The Governor General in Council or the Local Government may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it :—

death, transportation, penal servitude, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

## CHAPTER XXX.

### OF PREVIOUS ACQUITTALS OR CONVICTIONS.

Person once  
convicted or  
acquitted not  
to be tried  
for same  
offence.

403. (1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 236, or for which he might have been convicted under section 237.

(2) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 235, sub-section (1).

(Part VI.—*Proceedings in Prosecutions.* Chap. XXV. -- *Of previous Acquittals or Convictions.* Sec. 403.)

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried, was not competent to try the offence with which he is subsequently charged.

(5) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897,<sup>1</sup> or of section 188 of this Code.

*Explanation.*—The dismissal of a complaint, the stopping of proceedings under section 249, the discharge of the accused or any entry made upon a charge under section 273, is not an acquittal for the purposes of this section.

#### *Illustrations.*

(a) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or, upon the same facts, with theft simply, or with criminal breach of trust.

(b) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(c) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(d) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(e) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph 3 of the section.

(f) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(g) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

<sup>1</sup> Printed, *supra*, p. 316.

(Part VII.—Of Appeal, Reference and Revision. Chap. XXXI.—Of Appeals. Secs. 404-408.)

## PART VII. OF APPEAL, REFERENCE AND REVISION.

### CHAPTER XXXI.

#### OF APPEALS.<sup>1</sup>

Unless otherwise provided, no appeal to lie. Appeal from order rejecting application for restoration of attached property. Appeal from order requiring security for good behaviour. Appeal from sentence of Magistrate of the second or third class.

Transfer of appeals to first class Magistrate.

Appeal from sentence of Assistant

**404.** No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

**405.** Any person whose application under section 89 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court, may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

**406.** Any person ordered by a Magistrate other than the District Magistrate or a Presidency Magistrate, to give security for good behaviour under section 118 may appeal to the District Magistrate.

**407. (1)** Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 319 by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate.

(2) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the Local Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or, if already presented to the District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

<sup>2</sup>**408.** Any person convicted on a trial held by an Assistant Sessions Judge, a District Magistrate or other Magistrate of the first class, or any

<sup>1</sup> For limitation of appeals, see the Indian Limitation Act, 1877 (XV of 1877), Sch. II, Arts. 150, 154, 155 and 157, printed, General Acts, Vol. III, Ed. 1898, p. 75.

<sup>2</sup> As to appeals from sentences of District Magistrates in Upper Burma in cases other than those affecting European British subjects, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, ss. X and XVII, printed, Burma Code, Ed. 1899.

Notwithstanding the provisions of this section, in places where the Punjab Frontier Crimes Regulation, 1887 (IV of 1887), is in force, appeals lie to the Chief Court and not to a Court of Session, see s. 7 (2) of that Regulation, printed, Punjab Code, Ed. 1888, p. 395.

(Part VII.—Of Appeal, Reference and Revision. Chap. XXXI.—Of Appeals. Secs 403-414.)

person sentenced under section 319 by a Magistrate of the first class, may appeal to the Court of Session :

Sessions  
Judge or  
Magistrate of  
the first class.

Provided as follows :—

(a) any European British subject so convicted may, at his option, appeal either to the High Court or the Court of Session ;

(b) when in any case an Assistant Sessions Judge or a Magistrate specially empowered under section 30 passes any sentence of imprisonment for a term exceeding four years, or any sentence of transportation, the appeal shall lie to the High Court ;

(c) when any person is convicted by a Magistrate of an offence under section 124A of the Indian Penal Code,<sup>1</sup> the appeal shall lie to the High Court.

409. An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge.

Appeals to  
Court of  
Session how  
heard.

410. Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge, may appeal to the High Court.

Appeal from  
sentence of  
Court of  
Session.

411. Any person convicted on a trial held by a Presidency Magistrate may appeal to the High Court, if the Magistrate has sentenced him to imprisonment for a term exceeding six months or to fine exceeding two hundred rupees.

Appeal from  
sentence of  
Presidency  
Magistrate.

412. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or any Presidency Magistrate or Magistrate of the first class on such plea, there shall be no appeal except as to the extent or legality of the sentence.

No appeal in  
certain cases  
when accused  
pleads guilty.

413. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session or the District Magistrate or other Magistrate of the first class passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only, or of whipping only.

No appeal in  
petty cases.

*Explanation.*—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.

<sup>2</sup> 414. Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in any case tried summarily in which a Magis-

No appeal

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>2</sup> As to restrictions in appeals in Upper Burma, except those affecting European British subjects, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, ss. XI and XVII, printed, Burma Code, Ed. 1899.

(Part VII.—Of Appeal, Reference and Revision. Chap. XXVI.—Of Appeals. Secs 415-421.)

from certain  
summary  
convictions.

Proviso to  
sections 413  
and 414.

Saving of  
sentences on  
European  
British sub-  
jects.

Appeal on  
behalf of  
Government  
in case of  
acquittal.

Appeal on  
what matters  
admissible.

Petition of  
appeal

Procedure  
when ap-  
pellant in  
jail.

Summary  
dismissal  
of appeal.

trate empowered to act under section 360 passes a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only.

415. An appeal may be brought against any sentence referred to in section 413 or section 414 by which any two or more of the punishments therein mentioned are combined, but no sentence which would not otherwise be liable to appeal, shall be appealable merely on the ground that the person convicted is ordered to find security to keep the peace.

*Explanation.*—A sentence of imprisonment in default of payment of fine is not a sentence by which two or more punishments are combined within the meaning of this section.

416. Nothing in sections 413 and 414 applies to appeals from sentences passed under Chapter XXXIII on European British subjects.

417. The Local Government may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

418. An appeal may lie on a matter of fact as well as a matter of law, except where the trial was by jury, in which case the appeal shall lie on a matter of law only.

*Explanation.*—The alleged severity of a sentence shall, for the purposes of this section, be deemed to be a matter of law.

419. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against, and, in cases tried by a jury, a copy of the heads of the charge recorded under section 367.

420. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

421. (1) On receiving the petition and copy under section 419 or section 420, the Appellate Court shall peruse the same, and, if it considers that there is no sufficient ground for interfering, it may dismiss the appeal summarily :

Provided that no appeal presented under section 419 shall be dismissed unless the appellant or his pleader has had a reasonable opportunity of being heard in support of the same.



(Part VII.—Of Appeal, Reference and Revision. Chap. XXVI.—Of Appeals. Secs. 422-423.)

(2) Before dismissing an appeal under this section, the Court may call for the record of the case, but shall not be bound to do so.

422. If the Appellate Court does not dismiss the appeal summarily, it shall cause notice to be given to the appellant or his pleader, and to such officer as the Local Government may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal; Notice of appeal.

and, in cases of appeals under section 417, the Appellate Court shall cause a like notice to be given to the accused.

<sup>1</sup>423. (1) The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor, if he appears, and, in case of an appeal under section 417, the accused, if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may— Powers of Appellate Court in disposing of appeal.

(a) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(b) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Courts or committed for trial, or (2) alter the finding, maintaining the sentence, or, with or without altering the finding, reduce the sentence, or (3) with or without such reduction and with or without altering the finding, alter the nature of the sentence but, subject to the provisions of section 106, sub-section (3), not so as to enhance the same;

(c) in an appeal from any other order, alter or reverse such order;

(d) make any amendment or any consequential or incidental order that may be just or proper.

(2) Nothing herein contained shall authorize the Court to alter or reverse the verdict of a jury, unless it is of opinion that such verdict is erroneous owing to a misdirection by the Judge, or to a misunderstanding on the part of the jury of the law as laid down by him.

<sup>1</sup> As to enhancement of punishment by Appellate Courts in Upper Burma, except in cases affecting European British subjects, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, ss. XIII and XVII, printed, Burma Code, Ed. 1899.

(Part III.—Of Appeal, Reference and Revision. Chap. XXXI.—Of Appeals. Secs 124-128.)

Judgments  
of subor-  
dinate Appel-  
late Courts.

424. The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than a High Court :

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

Order by  
High Court  
on appeal to  
be certified  
to lower  
Court.

425. (1) Whenever a case is decided on appeal by the High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

(2) The Court to which the High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of the High Court ; and, if necessary, the record shall be amended in accordance therewith.

Suspension  
of sentence  
pending  
appeal.  
Release of  
appellant on  
bail.

426. (1) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail or on his own bond.

(2) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto.

(3) When the appellant is ultimately sentenced to imprisonment, penal servitude or transportation, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

Arrest of  
accused in  
appeal from  
acquittal.

427. When an appeal is presented under section 417, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail.

Appellate  
Court may  
take further  
evidence or  
direct it to  
be taken.

428. (1) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

(2) When the additional evidence is taken by the Court of Session of the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(Part VII—Of Appeal, Reference and Revision. Chap. XXXI.—Of Appeals. Secs. 429-431. Chap. XXXII.—Of Reference and Revision. Secs. 432-434.)

(3) Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken ; but such evidence shall not be taken in the presence of jurors or assessors.

(4) The taking of evidence under this section shall be subject to the provisions of Chapter XXV, as if it were an inquiry.

429. When the Judges composing the Court of Appeal are equally divided in opinion, the case, with their opinions thereon, shall be laid before another Judge of the same Court, and such Judge, after such hearing (if any) as he thinks fit, shall deliver his opinion, and the judgment or order shall follow such opinion. Procedure where Judges of Court of Appeal are equally divided.

430. Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 417 and Chapter XXXII. Finality of orders on appeal.

431. Every appeal under section 417 shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant. Abatement of appeals.

## CHAPTER XXXII.

### OF REFERENCE AND REVISION.

432. A Presidency Magistrate may, if he thinks fit, refer for the opinion of the High Court any question of law which arises in the hearing of any case pending before him, or may give judgment in any such case subject to the decision of the High Court on such reference and, pending such decision, may either commit the accused to jail, or release him on bail to appear for judgment when called upon. Reference by Presidency Magistrate to High Court.

433. (1) When a question has been so referred, the High Court shall pass such order thereon as it thinks fit, and shall cause a copy of such order to be sent to the Magistrate by whom the reference was made, who shall dispose of the case conformably to the said order. Disposal of case according to decision of High Court.

(2) The High Court may direct by whom the costs of such reference shall be paid. Direction as to costs.

434. (1) When any person has, in a trial before a Judge of a High Court consisting of more Judges than one and acting in the exercise of its original criminal jurisdiction, been convicted of an offence, the Judge, if he thinks fit, may reserve and refer for the decision of a Court consisting of two or Power to reserve questions arising in original jurisdiction of High Court.

(Part VII—Of Appeal, Reference and Revision. Chap. XXXVII.—Of  
Reference and Revision. Secs. 435-436.)

more Judges of such Court any question of law which has arisen in the course of the trial of such person, and the determination of which would affect the event of the trial.

Procedure  
when ques-  
tion  
reserved.

(2) If the Judge reserves any such question, the person convicted shall, pending the decision thereon, be remanded to jail, or, if the Judge thinks fit, be admitted to bail; and the High Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the Court of original jurisdiction, and to pass such judgment or order as the High Court thinks fit.

Power to  
call for re-  
cords of in-  
ferior Courts.

**435.** (1) The High Court or any Sessions Judge or District Magistrate, or any Subdivisional Magistrate empowered by the Local Government in this behalf, may call for and examine the record of any proceeding before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court.

(2) If any Subdivisional Magistrate acting under sub-section (1) considers that any such finding, sentence or order is illegal or improper, or that any such proceedings are irregular, he shall forward the record, with such remarks thereon as he thinks fit, to the District Magistrate.

(3) Orders made under sections 143 and 144 and proceedings under Chapter XII and section 176 are not proceedings within the meaning of this section:

(4) If an application under this section has been made either to the Sessions Judge or District Magistrate, no further application shall be entertained by the other of them.

Power to or-  
der commit-  
ment.

**436.** When, on examining the record of any case under section 435 or otherwise, the Sessions Judge or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Sessions Judge or District Magistrate may cause him to be arrested, and may thereupon, instead of directing a fresh inquiry, order him to be committed for trial upon the matter of which he has been, in the opinion of the Sessions Judge or District Magistrate, improperly discharged :

Provided as follows :—

(a) that the accused has had an opportunity of showing cause to such Judge or Magistrate why the commitment should not be made ;

(Part VII.—Of Appeal, Reference and Revision. Chap. XXXII.—Of  
Reference and Revision. Secs. 437-439.)

- (b) that if such Judge or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Judge or Magistrate may direct the inferior Court to inquire into such offence.

437. On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the Magistrates subordinate to him to make, and the District Magistrate may himself make, or direct any Subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (3) of section 204, or into the case of any accused person who has been discharged. Power to order inquiry.

438. (1) The Sessions Judge or District Magistrate may, if he thinks fit, on examining under section 435 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond. Report to High Court.

(2) An Additional Sessions Judge shall have and may exercise all the powers of a Sessions Judge under this Chapter in respect of any case which may be transferred to him by the Sessions Judge.

439. (1) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 195, 423, 426, 427 and 428 or on a Court by section 338, and may enhance the sentence ; and, when the Judges composing the Court of Revision are equally divided in opinion, the case shall be disposed of in manner provided by section 429. High Court's powers of revision.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Where the sentence dealt with under this section has been passed by a Magistrate acting otherwise than under section 34, the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court, the accused has committed, than might have been inflicted for such offence by a Presidency Magistrate or a Magistrate of the first class.

(4) Nothing in this section applies to an entry made under section 273, or shall be deemed to authorise a High Court to convert a finding of acquittal into one of conviction.

(Part VII.—Of Appeal, Reference and Revision. Chap. XXXII.—Of Reference and Revision. Secs. 440–442. Part VIII.—Special Proceedings. Chap. XXXIII.—Criminal Proceedings against Europeans and Americans. Sec. 443.)

(5) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

Optional  
with Court  
to hear  
parties.

440. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision :

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 437, sub-section (2).

Statement by  
Presidency  
Magistrate  
of grounds of  
his decision  
to be consid-  
ered by  
High Court.

441. When the record of any proceeding of any Presidency Magistrate is called for by the High Court under section 435, the Magistrate may submit with the record a statement setting forth the grounds of his decision or order and any facts which he thinks material to the issue ; and the Court shall consider such statement before overruling or setting aside the said decision or order.

High Court's  
order to be  
certified to  
lower Court  
or Magistrate.

442. When a case is revised under this Chapter by the High Court, it shall, in manner hereinbefore provided by section 125, certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified ; and, if necessary, the record shall be amended in accordance therewith.

## PART VIII. SPECIAL PROCEEDINGS.

### CHAPTER XXXIII.

#### CRIMINAL PROCEEDINGS AGAINST EUROPEANS AND AMERICANS.<sup>1</sup>

Magistrates  
who may  
inquire into  
and try  
charges  
against Euro-  
pean British  
subjects.

443. No Magistrate, unless he is a Justice of the Peace, and (except in the case of a District Magistrate or Presidency Magistrate) unless he is a Magistrate of the first class and an European British subject, shall inquire into or try any charge against an European British subject.

<sup>1</sup> As to withdrawal from vagrants of their privileges as European British subjects, see s. 30, of the European Vagrancy Act, 1874 (IX of 1874), s. 30, and s. 3 (I), *supra*. For Act IX of 1874, see General Acts, Ed. 1898, Vol. II, p. 453.

(Part VIII.—*Special Proceedings. Chap. XXXIII.—Criminal Proceedings against Europeans and Americans. Sers. 444-448.*)

444. No Judge presiding in a Court of Session, except the Sessions Judge, shall exercise jurisdiction over an European British subject unless he himself is an European British subject; and, if he is an Assistant Sessions Judge, unless he has held the office of Assistant Sessions Judge for at least three years and has been specially empowered in this behalf by the Local Government

Sessions Judge to be an European British subject. Assistant Sessions Judge to have held office for three years and to be specially empowered.

445. Nothing in section 443 or section 444 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of a like offence if committed by another person :

Cognizance of offence committed by European British subject.

Provided that, if he issues any process for the purpose of compelling the appearance of an European British subject accused of an offence, such process shall be made returnable before a Magistrate having jurisdiction to inquire into or try the case.

446. Notwithstanding anything contained in section 32 or section 34, no Magistrate other than a District Magistrate or Presidency Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which may extend to one thousand rupees, or both, and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both.

Sentences which may be passed by provincial Magistrates.

447. (1) When an European British subject is accused of an offence before a Magistrate and such offence cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused ought to be committed, commit him to the Court of Session, or, in the case of a Presidency Magistrate, to the High Court

When commitment is to be to Court of Session and when to High Court.

(2) When the offence which appears to have been committed is punishable with death or with transportation for life, the commitment shall be to the High Court.

448. Where any person committed to the High Court under section 447 is charged with several offences of which one is punishable with death or transportation for life and the others with a less punishment, and the High Court considers that he should not be tried for the offence punishable with death or transportation, the High Court may nevertheless try him for the other offences.

Trial of offences of which one is, and the others are not, punishable with death or transportation for life.

(Part VIII.—*Special Proceedings.* Chap. XXXIII.—*Criminal Proceedings against Europeans and Americans.* Secs. 449-451.)

Sentences which may be passed by Court of Session.

449. (1) Notwithstanding anything contained in section 31, no Court of Session shall pass on any European British subject any sentence other than a sentence of imprisonment for a term which may extend to one year, or fine, or both.

Procedure when Sessions Judge finds his powers inadequate.

(2) If, at any time after the commitment and before signing judgment, the presiding Judge thinks that the offence which appears to be proved, cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. Such Judge may either himself bind over, or direct the committing Magistrate to bind over, the complainant and witnesses to appear before the High Court.

Jury or assessors before High Court or Court of Session.

450. (1) In trials of European British subjects before a High Court or Court of Session, if, before the first juror is called and accepted, or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans.

(2) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused, or, where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (1), require that not less than half the number of the assessors shall be Europeans or Americans or both Europeans and Americans.

Right of European British subject to claim jury before District Magistrate.

451. (1) In trials of European British subjects before a District Magistrate for any offence, any such subject may, in a summons-case before he is heard in his defence under section 244, or in a warrant-case before he enters on his defence under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 450.

(2) If a claim is made under sub-section (1) in a summons-case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warrant-case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

(3) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury.

(4) In every such case the Magistrate shall, notwithstanding anything contained in section 242, before issuing any orders as aforesaid, frame a formal charge.



(Part VIII.—*Special Proceedings. Chap. XXXIII.—Criminal Proceedings against Europeans and Americans. Sec. 452.*)

(5) The provisions of sections 211, 216, 217, 219 and 220 shall, so far as may be, apply for the purpose of securing the attendance of the complainant, the accused and the witnesses at every trial to be held under this section.

(6) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to his Court for trial.

(7) All Courts may construe any of the provisions referred to in sub-section (5) or sub-section (6), in so far as they are made applicable by those sub-sections, with such verbal alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before them.

(8) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447.

(9) If an accused person claims to be tried by jury under this section and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 450 cannot be constituted for the trial before himself, or cannot be so constituted without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable, he may, instead of issuing orders for the trial before himself under this section, transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time, by rules made by it in this behalf and approved by the Local Government, or by special order, direct.

Transfer to another Court in certain cases.

(10) When a case is transferred under this section to a Sessions Judge or District Magistrate, he shall with all convenient speed try it with the same powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under this section.

452. In any case in which an European British subject is accused jointly with a person not being an European British subject, and such European British subject is committed for trial before a High Court or Court of Session, such subject and person may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately :

Trial of European British subject and Native jointly accused.

Provided that, if the European British subject requires under section 450 to be tried by a mixed jury, or by a mixed set of assessors, and the person not being an European British subject requires that he shall be tried separately, the latter person shall be tried separately in accordance with the provisions of Chapter XXIII.

When Native may claim separate trial.

(Part VIII.—*Special Proceedings.* Chap. XXXIII.—*Criminal Proceedings against Europeans and Americans.* Secs. 453-456.)

Procedure on claim of person to be dealt with as European British subject.

**453.** (1) When any person claims to be dealt with as an European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial ; and such Magistrate shall inquire into the truth of such statement, and allow the person making it a reasonable time within which to prove that it is true, and shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him.

(2) When any such person is committed by the Magistrate for trial before the Court of Session, and such person before such Court claims to be dealt with as an European British subject, such Court shall, after such further inquiry, if any, as it thinks fit, decide whether he is or is not an European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

(3) When the Court before which any person is tried, decides that he is not an European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

Failure to plead status a waiver.

**454.** (1) If an European British subject does not claim to be dealt with as such by the Magistrate before whom he is tried or by whom he is committed, or if, when such claim has been made before, and disallowed by, the committing Magistrate, it is not again made before the Court to which such subject is committed, he shall be held to have relinquished his right to be dealt with as such European British subject and shall not assert it in any subsequent stage of the same case.

(2) Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a subject or not.

Trial under this Chapter of person not an European British subject.

**455.** Where a person who is not an European British subject is dealt with as such under this Chapter and does not object, the inquiry, commitment, trial or sentence (as the case may be) shall not, by reason of such dealing, be invalid.

Right of European British sub-

**456.** When any European British subject is unlawfully detained in custody by any person, such European British subject or any person on his behalf may

(Part VIII.—*Special Proceedings.* Chap. XXXIII.—*Criminal Proceedings against Europeans and Americans.* Secs. 457-459.)

apply to the High Court<sup>1</sup> which would have jurisdiction over such European British subject in respect of any offence committed by him at the place where he is detained or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the High Court to abide such further order as it may pass.

ject unlawfully detained to apply for order to be brought before High Court.

457. The High Court, if it thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or it may issue the order in the first instance, and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry (if any) as it thinks necessary.

Procedure on such application.

458. The High Court may issue such orders throughout the territories within the local limits of its appellate criminal jurisdiction, and such other territories as the Governor General in Council may direct.

Territories throughout which High Court may issue such orders.

459. (1) Unless there is something repugnant in the context, all enact-

Application

<sup>1</sup> Original and appellate criminal jurisdiction is exercised by the High Courts at Madras and Bombay and in the North-Western Provinces and Oudh over European British subjects in outlying provinces and places in British India as follows:—

HIGH COURTS.	PLACES.
Madras . . . . .	Coorg. The Upper Godavari District of the Central Provinces.
Bombay . . . . .	The Nagpur, Nerbada and Chhatisgarh Divisions of the Central Provinces. The Pargana of Manpur in Central India.
North-Western Provinces . . . . .	Oudh. The Jabalpur Division of the Central Provinces. The line of railway from Allahabad to Jabalpur, and the lands and buildings appurtenant thereto, other than the station at Satna The Cantonment of Morar (since ceded to the Gwalior State, see Notification No. 2557-I., dated the 29th July, 1886, Gazette of India, 1886, Pt. I, p. 453). Ajmere and British Merwara.

[See Notification No. 1203, dated the 23rd September 1874, Gazette of India, 1874, Pt. I, p. 494.]

The High Court at Fort William exercises original and appellate jurisdiction and has all the functions of a High Court under the Code in all criminal proceedings against European British subjects and persons charged with European British subjects in the Andaman and Nicobar Islands, see Notification No. 77, dated 15th March, 1878, Gazette of India, 1878, Pt. I, p. 132.

Original and appellate jurisdiction is also exercised by the High Courts at Fort William, Madras and Bombay and in the North-Western Provinces over European British subjects, being Christians, resident in certain Native States, territories and Chiefships, see Notification No. 178-J., dated 23rd September, 1874, Gazette of India, 1874, Pt. I, p. 485; No. 215-J., dated 18th December, 1874, Gazette of India, 1874, Pt. I, p. 612; No. 119-J. and No. 120-J., dated 9th August, 1875, Gazette of India, 1875, Pt. I, p. 401.

(Part VIII.—*Special Proceedings.* Chap. XXXIII.—*Criminal Proceedings against Europeans and Americans.* Secs. 460-462.)

of Acts con-  
ferring  
jurisdiction  
on Magis-  
trates or  
Courts of  
Session

ments heretofore or hereafter made by the Governor General in Council, which confer on Magistrates or on the Court of Session jurisdiction over offences, shall be deemed to apply to European British subjects, although such persons are not expressly referred to therein.

(2) Nothing in this section shall be deemed to authorise any Court to exceed the limits prescribed by this Chapter as to the amount of punishment which it may inflict on an European British subject, or to confer jurisdiction on any Magistrate or any Judge presiding in a Court of Session, not being a Justice of the Peace.

Jury for trial  
of Europeans  
or Americans.

460. In every case triable by jury or with the aid of assessors, in which an European (not being an European British subject) or an American is the accused person, or one of the accused persons, not less than half the number of jurors or assessors shall, if practicable, and if such European or American so claims, be Europeans or Americans.

Jury when  
European or  
American  
charged  
jointly with  
one of an-  
other race.

461. Whenever an European or American is charged before the Court of Session jointly with a person not an European or American and in compliance with a claim made under section 460 is tried by a jury or with the aid of a set of assessors, of which at least one-half consists of Europeans and Americans, the latter person shall, if he so claims, be tried separately.

Summoning  
and empanel-  
ling jurors  
under section  
450, 451 or  
430.

462. (1) When a trial is to be held before the Court of Session in which the accused person, or one of the accused persons, is entitled to be tried by a jury constituted under the provisions of section 450, or section 460, or before the Court of a District Magistrate or Sessions Judge proceeding under section 451, the Court shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinbefore prescribed, as many European and American jurors as are required for the trial.

(2) The Court shall also, at the same time, in like manner, cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons has been already summoned for trials by jury at that session.

(3) From the whole number of persons returned the jurors who are to constitute the jury shall be chosen by lot in the manner prescribed in section 276, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as practicable, has been obtained :

Provided that, in any case in which the proper number of Europeans and Americans cannot otherwise be obtained, the Court may, in its discretion, for the purpose of constituting the jury, summon any person excluded from the list on the ground of his being exempted under section 320.

(Part VIII.—*Special Proceedings. Chap. XXXIII.—Criminal Proceedings against Europeans and Americans. Sec. 463. Chap. XXXIV.—Lunatics. Secs. 464-466.*)

**463.** Criminal proceedings against European British subjects, Europeans not being European British subjects, and Americans, before the Court of Session and High Court, shall, except as otherwise expressly provided, be conducted according to the provisions of this Code.

Conduct of criminal proceedings against European British subjects, etc.

## CHAPTER XXXIV.

### LUNATICS.

**464.** (1) When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the district or such other medical officer as the Local Government directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing.

Procedure in case of accused being lunatic.

(2) If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of making his defence, he shall postpone further proceedings in the case.

**465.** (1) If any person committed for trial before a Court of Session or a High Court appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the jury, or the Court with the aid of assessors, shall, in the first instance, try the fact of such unsoundness and incapacity, and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.

Procedure in case of person committed before Court of Session or High Court being lunatic.

(2) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

**466.** (1) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, if the case is one in which bail may be taken, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

Release of lunatic pending investigation or trial.

(2) If the case is one in which bail may not be taken, or if sufficient security is not given, the Magistrate or Court shall report the case to the Local Government, remanding the accused to custody pending orders, and the Local Govern-

Custody of lunatic.

(Part VIII.—*Special Proceedings.* Chap. XXXIV.—*Lunatics.*  
Secs 467-471.)

ment may order the accused to be confined in a lunatic asylum, jail or other suitable place of safe custody, and the Magistrate or Court shall give effect to such order.

Resumption  
of inquiry  
or trial.

467. (1) Whenever an inquiry or a trial is postponed under section 464 or section 465, the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

(2) When the accused has been released under section 466, and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Procedure  
on accused  
appearing  
before  
Magistrate  
or Court.

468. (1) If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

(2) If the Magistrate or Court considers the accused person to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 464 or section 465, as the case may be.

When  
accused ap-  
pears to  
have been  
insane.

469. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session or High Court, send him for trial before the Court of Session or High Court, as the case may be.

Judgment  
of acquittal  
on ground  
of lunacy.

<sup>1</sup> 470. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Person  
acquitted on  
such ground  
to be kept in  
safe custody.

471. (1) Whenever such judgment states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the Magistrate or Court thinks fit, and shall report the case for the orders of the Local Government.

<sup>1</sup> Cf. the Criminal Lunatics Act, 1800 (39 & 40 Geo. III, c. 94).

(Part VIII.—*Special Proceedings. Chap. XXXIV.—Lunatics.*  
*Secs. 472-474.*)

(2) The Local Government may order such person to be confined in a lunatic asylum, jail or other suitable place of safe custody.

(3) The Governor General in Council may, by general or special order, direct that any person whom the Local Government has ordered under this Chapter to be confined in a lunatic asylum, jail or other place of safe custody shall be removed from the place where he is confined, to any lunatic asylum, jail or other place of safe custody in British India.

Power of Governor General in Council to order criminal lunatics confined by order of Local Government to be removed from one province to another.

(4) The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 166 or this section, to discharge all or any of the functions of the Inspector General of Prisons under section 472, section 473 or section 474.

Power of Local Government to relieve Inspector General of certain functions.

472. When any person is confined under the provisions of section 466 or section 471, the Inspector General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylum, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such visitors as aforesaid; and such Inspector General or visitors shall make a special report to the Local Government as to the state of mind of such person.

Lunatic prisoners to be visited by Inspector General.

473. If such person is confined under the provisions of section 466, and such Inspector General or visitors shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 468; and the certificate of such Inspector General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner is reported capable of making his defence.

474. (1) If such person is confined under the provisions of section 466 or section 471, and such Inspector General or visitors shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

Procedure where lunatic confined under section 466 or 471 is declared fit to be discharged.

(Part VIII.—Special Proceedings. Chap. XXXIV.—Lunatics. Sec. 475. Chap. XXXV.—Proceedings in case of certain Offences affecting the Administration of Justice. Secs. 476-477.)

(2) Such Commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, which may order his discharge or detention as it thinks fit.

Delivery of  
lunatic to  
care of  
relative.

475. (1) Whenever any relative or friend of any person confined under the provisions of section 466 or section 471 desires that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and, on his giving security to the satisfaction of such Government that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

(2) Whenever such person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Local Government directs.

(3) The provisions of sections 472 and 474 shall, *mutatis mutandis*, apply to persons delivered under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

## CHAPTER XXXV.

### PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

Procedure  
in cases men-  
tioned in  
section 195.

476. (1) When any Civil, Criminal or Revenue Court is of opinion that there is ground for inquiring into any offence referred to in section 195 and committed before it or brought under its notice in the course of a judicial proceeding, such Court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to the nearest Magistrate of the first class, and may send the accused in custody, or take sufficient security for his appearance, before such Magistrate; and may bind over any person to appear and give evidence on such inquiry or trial.

(2) Such Magistrate shall thereupon proceed according to law, and as if upon complaint made and recorded under section 200, and may, if he is authorised under section 192 to transfer cases, transfer the inquiry or trial to some other competent Magistrate.

Power of  
Court of  
Session as to

477. (1) Subject to the provisions of section 444, a Court of Session may charge a person for any offence referred to in section 195 and committed before



(Part VIII.—*Special Proceedings. Chap. XXXV.—Proceedings in case of certain Offences affecting the Administration of Justice. Secs. 478-481.*)

it, or brought under its notice in the course of a judicial proceeding, and may commit, or admit to bail and try, such person upon its own charge. such offences committed before itself.

(2) Such Court may direct the Magistrate to cause the attendance of any witnesses for the purposes of the trial.

478. (1) When any such offence is committed before any Civil or Revenue Court, or brought under the notice of any Civil or Revenue Court in the course of a judicial proceeding, and the case is triable exclusively by the High Court or Court of Session, or such Civil or Revenue Court thinks that it ought to be tried by the High Court or Court of Session, such Civil or Revenue Court may, instead of sending the case under section 476 to a Magistrate for inquiry, itself complete the inquiry, and commit or hold to bail the accused person to take his trial before the High Court or Court of Session, as the case may be. Power of Civil and Revenue Courts to complete inquiry and commit to High Court or Court of Session.

(2) For the purposes of an inquiry under this section the Civil or Revenue Court may, subject to the provisions of section 443, exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be conducted as nearly as may be in accordance with the provisions of Chapter XVIII, and shall be deemed to have been held by a Magistrate.

479. When any such commitment is made by a Civil or Revenue Court, the Court shall send the charge with the order of commitment and the record of the case to the Presidency Magistrate, District Magistrate or other Magistrate authorised to commit for trial, and such Magistrate shall bring the case before the High Court or Court of Session, as the case may be, together with the witnesses for the prosecution and defence. Procedure of Civil or Revenue Court in such cases.

o. 178, section 179, section 180, or section 228 of the Indian Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender, whether he is an European British subject or not, to be detained in custody;<sup>1</sup> and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid. Procedure in certain cases of contempt.

(2) Nothing in section 443 or section 444 shall be deemed to apply to proceedings under this section.

481. (1) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence. Record in such cases.

<sup>1</sup> See Sch. V, form XXXVIII, *infra*,

(Part VIII.—*Special Proceedings. Chap. XXXV.—Proceedings in case of certain Offences affecting the Administration of Justice. Secs. 482-485.*)

(2) If the offence is under section 228 of the Indian Penal Code, the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult. XLV of 1860.

Procedure where Court considers that case should not be dealt with under section 480.

**482.** (1) If the Court in any case considers that a person accused of any of the offences referred to in section 480 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or such Court is for any other reason of opinion that the case should not be disposed of under section 480, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or, if sufficient security is not given, shall forward such person in custody to such Magistrate.

(2) The Magistrate to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

When Registrar or Sub-Registrar to be deemed a Civil Court within sections 480 and 482.

**483.** When the Local Government so directs, any Registrar or any Sub-Registrar appointed under the Indian Registration Act, 1877,<sup>1</sup> shall be deemed to be a Civil Court within the meaning of sections 480 and 482. III of 1877.

Discharge of offender on submission or apology.

**484.** When any Court has under section 480 adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Imprisonment or committal of person refusing to answer or produce document.

**485.** If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant<sup>2</sup> under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to be examined

<sup>1</sup> Printed, General Acts, Ed 1898, Vol. III, p. 41.

<sup>2</sup> See Sch. V, form XXXIX, *infra*.

(Part VIII.—*Special Proceedings. Chap. XXXV.—Proceedings in case of certain Offences affecting the Administration of Justice, Secs. 486-487. Chap. XXXVI.—Of the Maintenance of Wives and Children. Sec. 488.*)

and to answer, or to produce the document or thing. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 480 or section 482, and, in the case of a Court established by Royal Charter, shall be deemed guilty of a contempt.

486. (1) Any person sentenced by any Court under section 480 or section 485 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

Appeals from convictions in contempt cases.

(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

(3) An appeal from such conviction by a Court of Small Causes in a presidency-town shall lie to the High Court, and

an appeal from such conviction by any other Court of Small Causes shall lie to the Court of Session for the sessions division within which such Court is situate.

(4) An appeal from such conviction by any officer as Registrar or Sub-Registrar appointed as aforesaid may, when such officer is also Judge of a Civil Court, be made to the Court to which it would, under the preceding portion of this section, be made if such conviction were a decree by such officer in his capacity as such Judge, and in other cases may be made to the District Judge or, in the presidency-towns, to the High Court.

487. (1) Except as provided in sections 477, 480 and 485, no Judge of a Criminal Court or Magistrate other than a Judge of a High Court and the Recorder of Rangoon, shall try any person for any offence referred to in section 195, when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

Certain Judges and Magistrates not to try offences referred to in section 195 when committed before themselves.

(2) Nothing in section 476 or section 482 shall prevent a Magistrate empowered to commit to the Court of Session or High Court from himself committing any case to such Court.

## CHAPTER XXXVI.

### OF THE MAINTENANCE OF WIVES AND CHILDREN.

488. (1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain

Order for maintenance

(Part VIII.—*Special Proceedings* Chap. XXXVI—*Of the Maintenance of Wives and Children.* Sec. 488)

of wives and children.

itself, the District Magistrate, a Presidency Magistrate, a Subdivisional Magistrate or a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

(2) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance.

Enforcement of order.

(3) If any person so ordered wilfully neglects to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant<sup>1</sup> for levying the amount due in manner hereinbefore provided for levying fines,<sup>2</sup> and may sentence<sup>3</sup> such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

(4) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.

(6) All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons-cases:

Provided that, if the Magistrate is satisfied that he is wilfully avoiding service, or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte*. Any order so made may be set aside

<sup>1</sup> See Sch. V, form XLI, *infra*.

<sup>2</sup> See ss. 386 to 389, *supra*.

<sup>3</sup> See Sch. V, form XL, *infra*.

(Part VIII.—*Special Proceedings. Chap. XXXVI.—Of the Maintenance of Wives and Children. Secs. 489-490. Chap. XXXVII.—Directions of the Nature of a Habeas Corpus. Sec. 491.*)

for good cause shewn, on application made within three months from the date thereof.

(7) The accused may tender himself as a witness, and in such case shall be examined as such.

(8) The Court in dealing with applications under this section shall have power to make such order as to costs as may be just.

(9) The accused may be proceeded against in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

489. On proof of a change in the circumstances of any person receiving under section 488 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit: Provided that if he increases the allowance the monthly rate of fifty rupees in the whole be not exceeded.

Alteration in allowance.

490. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid; and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

Enforcement of order of maintenance.

## CHAPTER XXXVII.

### DIRECTIONS OF THE NATURE OF A HABEAS CORPUS.

491. (1) Any of the High Courts of Judicature at Fort William, Madras and Bombay may, whenever it thinks fit, direct—

Power to issue directions of the nature of a habeas corpus.

- (a) that a person within the limits of its ordinary original civil jurisdiction be brought up before the Court to be dealt with according to law;
- (b) that a person illegally or improperly detained in public or private custody within such limits be set at liberty;
- (c) that a prisoner detained in any jail situate within such limits be brought before the Court to be there examined as a witness in any matter pending or to be inquired into in such Court;
- (d) that a prisoner detained as aforesaid be brought before a Court-martial or any Commissioners acting under the authority of a

(Part IX.—Supplementary Provisions. Chap. XXXVIII.—Of the Public Prosecutor. Secs. 492-493.)

commission from the Governor General in Council for trial or to be examined touching any matter pending before such Court-martial or Commissioners respectively;

(e) that a prisoner within such limits be removed from one custody to another for the purpose of trial; and

(f) that the body of a defendant within such limits be brought in on the Sheriff's return of *cepi corpus* to a writ of attachment.

(2) Each of the said High Courts may, from time to time, frame rules to regulate the procedure in cases under this section.

(3) Nothing in this section applies to persons detained under the Bengal State Prisoners Regulation, 1818,<sup>1</sup> Madras Regulation II of 1819,<sup>2</sup> or Bombay

III of 1818.  
XXXIV of  
1850.  
III of 1858.

<sup>3</sup> Regulation XXV of 1827, or the State Prisoners Act, 1850,<sup>4</sup> or the State Prisoners Act, 1858.<sup>5</sup>

## PART IX.

### SUPPLEMENTARY PROVISIONS.

#### CHAPTER XXXVIII.

##### OF THE PUBLIC PROSECUTOR.

Power to  
appoint  
Public  
Prosecutors

**492.** (1) The Governor General in Council or the Local Government may appoint, generally, or in any case, or for any specified class of cases, in any local area, one or more officers to be called Public Prosecutors.

(2) In any case committed for trial to the Court of Session, the District Magistrate, or, subject to the control of the District Magistrate, the Sub-divisional Magistrate, may, in the absence of the Public Prosecutor or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below the rank of Assistant District Superintendent, to be Public Prosecutor for the purpose of such case.

Public Pro-  
secutor may  
plead in all  
Courts in  
cases under  
his charge.  
Pleaders pri-  
vately in-  
structed to  
be under his  
direction.

**493.** The Public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal; and, if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein under his directions

<sup>1</sup> Printed, Bengal Code, Vol. I, Ed 1889, p. 140.

<sup>2</sup> Madras Code, Ed. 1888, p. 77.

<sup>3</sup> Printed, Bombay Code, Vol. I, Ed 1894, p. 25.

<sup>4</sup> Printed, General Acts, Vol. I, Ed 1898, p. 73.

<sup>5</sup> Printed *ibid*, p. 142.

(Part IX.—*Supplementary Provisions. Chap. XXXVIII.—Of the Public Prosecutor. Secs. 494-495. Chap. XXXIX.—Of Bail. Sec. 496.*)

494. Any Public Prosecutor appointed by the Governor General in Council or the Local Government may, with the consent of the Court, in cases tried by jury before the return of the verdict, and in other cases before the judgment is pronounced, withdraw from the prosecution of any person; and, upon such withdrawal,—

Effect of withdrawal from prosecution

(a) if it is made before a charge has been framed, the accused shall be discharged;

(b) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted.

495. (1) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police<sup>1</sup> below a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor General in Council, but no person, other than the Advocate General, Standing Counsel, Government Solicitor, Public Prosecutor or other officer generally or specially empowered by the Local Government in this behalf, shall be entitled to do so without such permission.

Permission to conduct prosecution

(2) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 494, and the provisions of that section shall apply to any withdrawal by such officer.

(3) Any person conducting the prosecution may do so personally or by a pleader.

(4) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

## CHAPTER XXXIX.

### OF BAIL.

496. When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail:<sup>2</sup> Provided that such officer or Court, if he or it thinks fit, may, instead of taking

In what cases bail to be taken.

<sup>1</sup> As to conduct of prosecutions by police-officers in Upper Burma notwithstanding anything in s. 495, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, s. XIV, printed, Burma Code, Ed. 1899.

<sup>2</sup> See Sch. V, Form XLII, *infra*.

(Part IX.—Supplementary Provisions. Chap. XXXIX.—Of Bail.  
Secs. 497-500.)

bail from such person, discharge him on his executing a bond<sup>1</sup> without sureties for his appearance as hereinafter provided.

When bail  
may be taken  
in case of  
non-bailable  
offence.

497. (1) When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) Any Court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested and may commit him to custody.

Power to  
direct ad-  
mission to  
bail or reduc-  
tion of bail.

498. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police-officer or Magistrate be reduced.

Bond of  
accused and  
sureties.

499. (1) Before any person is released on bail or released on his own bond, a bond<sup>1</sup> for such sum of money as the police-officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police-officer or Court, as the case may be.

(2) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the High Court, Court of Session or other Court to answer the charge.

Discharge  
from custody.

500. (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release<sup>2</sup> to the officer in charge of the jail, and such officer on receipt of the order shall release him.

<sup>1</sup> See Sch. V, Form XLII, *infra*.

<sup>2</sup> See Sch. V, Form XLIII, *infra*.



(Part IX.—Supplementary Provisions. Chap. XXXIX.—Of Bail. Secs. 501-502. Chap. XL.—Of Commissions for the Examination of Witnesses. Sec. 503.)

(2) Nothing in this section, section 496 or section 497 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

501. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it, and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

Power to order sufficient bail when that first taken is insufficient.

502. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

Discharge of sureties.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

## CHAPTER XL.

### OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

503. (1) Whenever, in the course of an inquiry, a trial or any other proceeding under this Code, it appears to a Presidency Magistrate, a District Magistrate, a Court of Session or the High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

When attendance of witness may be dispensed with.

Issue of commission and procedure thereunder.

(2) When the witness resides in the territories of any Prince or Chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

(3) The Magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints

(Part IX.—*Supplementary Provisions. Chap. XL.—Of Commissions for the Examination of Witnesses. Secs. 504-507.*)

in this behalf, shall proceed to the place where the witness is or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

(4) Where the commission is issued to such officer as is mentioned in sub-section (2), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a Magistrate of the first class in British India.

Commission  
in case of  
witness being  
within presi-  
dency-town.

504. (1) If the witness is within the local limits of the jurisdiction of any Presidency Magistrate, the Magistrate or Court issuing the commission may direct the same to the said Presidency Magistrate, who thereupon may compel the attendance of, and examine, such witness as if he were a witness in a case pending before himself.

(2) Nothing in this section shall be deemed to affect the power of the High Court to issue commissions under the Slave Trade Act, 1876, section 3.<sup>1</sup>

39 & 40 Vict.,  
c. 46.

Parties may  
examine  
witnesses.

505. The parties to any proceeding under this Code in which a commission is issued, may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate or officer to whom the commission is directed, shall examine the witness upon such interrogatories.

(2) Any such party may appear before such Magistrate or officer by pleader, or, if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

Power of  
provincial  
Subordinate  
Magistrate  
to apply for  
issue of  
commission.

506. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a Presidency Magistrate or District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.

Return of  
commission.

507. (1) After any commission issued under section 503 or section 506 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions,

<sup>1</sup> Printed, Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 1015.

(Part IX.—*Supplemental Provisions*. Chap. XI.—*Of Commissions for the Examination of Witnesses*. Sec. 508. Chap. XII.—*Special Rules of Evidence*. Secs. 509-511.)

be read in evidence in the case by either party, and shall form part of the record.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Indian Evidence Act, 1872,<sup>1</sup> may also be received in evidence at any subsequent stage of the case before another Court.

**508.** In every case in which a commission is issued under section 503 or section 506, the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission. Adjournment of inquiry or trial.

## CHAPTER XII.

### SPECIAL RULES OF EVIDENCE.

**509. (1)** The deposition of a Civil Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XI, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness. Deposition of medical witness.

(2) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition. Power to summon medical witness.

**510.** Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code. Report of Chemical Examiner.

**511.** In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force,— Previous conviction or acquittal how proved.

(a) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order; or,

(b) in case of a conviction, either by a certificate signed by the officer in charge of the jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered;

<sup>1</sup>Printed, General Acts, Vol. II, Ed. 1898, p. 292.

(Part IX.—*Supplemental Provisions.* Chap. XLI.—*Special Rules of Evidence.* Sec. 512. Chap. XLII.—*Provisions as to Bonds.* Secs. 513-514.)

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

Record of  
evidence in  
absence of  
accused.

512. (1) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

Record of  
evidence  
when offender  
unknown.

(2) If it appears that an offence punishable with death or transportation has been committed by some person or persons unknown, the High Court may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of British India.

## CHAPTER XLII.

### PROVISIONS AS TO BONDS.

Deposit  
instead of  
recognizance.

513. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

Procedure in  
forfeiture of  
bond.

<sup>1</sup> 514. (1) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of a Presidency Magistrate or Magistrate of the first class,

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.<sup>2</sup>

<sup>1</sup> See notes to ss. 110 to 112, *supra*.

<sup>2</sup> See Sch. V, Forms XLIV to LIII, *infra*.

(Part IX.—*Supplemental Provisions.* Chap. XLII.—*Provisions as to Bonds.* Secs. 515-516. Chap. XLIII.—*Of the Disposal of Property.* Sec. 517.)

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant<sup>1</sup> for the attachment and sale of the moveable property belonging to such person or his estate if he be dead.

(3) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it ; and it shall authorise the distress and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

(4) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

(5) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(6) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond, but the party who gave the bond may be required to find a new surety.

515. All orders passed under section 514 by any Magistrate other than a Presidency Magistrate or District Magistrate shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

516. The High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

Appeal from, and revision of, orders under section 514. Power to direct levy of amount due on certain recognizances.

## CHAPTER XLIII.

### OF THE DISPOSAL OF PROPERTY.

517. (1) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal of any property or document produced before it or in its custody or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

Order for disposal of property regarding which offence committed.

(2) When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled

<sup>1</sup> See Sch. V, Forms XLIV to LIII, *infra*.

(Part IX.—*Supplemental Provisions.* Chap. XLIII.—*Of the Disposal of Property.* Secs. 518-521.)

thereto, such Court may direct that the order be carried into effect by the District Magistrate.

(3) When an order is made under this section in a case in which an appeal lies, such order shall not (except when the property is live-stock or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

<sup>1</sup> *Explanation.*—In this section the term “property” includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Order may take form of reference to District or Subdivisional Magistrate.

518. In lieu of itself passing an order under section 517 the Court may direct the property to be delivered to the District Magistrate or to a Subdivisional Magistrate, who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Payment to innocent purchaser of money found on accused.

<sup>2</sup> 519. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Stay of order under section 517, 518 or 519.

520. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519, passed by a Court subordinate thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.

Destruction of libellous and other matter.

521. (1) On a conviction under the Indian Penal Code,<sup>3</sup> section 292, section 293, section 501 or section 502, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are

<sup>1</sup> *Cf.* the Larceny Act (24 & 25 Vict., c. 96), s. 1.

<sup>2</sup> *Cf.* the Criminal Law Amendment Act, 1867 (30 & 31 Vict., cap. 35), s. 9.

<sup>3</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 210.

(Part IX—*Supplemental Provisions. Chap. XLIII.—Of the Disposal of Property Secs. 522-525.*)

in the custody of the Court or remain in the possession or power of the person convicted.

(2) The Court may, in like manner, on a conviction under the Indian Penal Code, section 272, section 273, section 274 or section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had, to be destroyed.

**522.** (1) Whenever a person is convicted of an offence attended by criminal force and it appears to the Court that by such force any person has been dispossessed of any immoveable property, the Court may, if it thinks fit, order such person to be restored to the possession of the same.

Power to restore possession of immoveable property.

(2) No such order shall prejudice any right or interest to or in such immoveable property which any person may be able to establish in a civil suit.

**523.** (1) The seizure by any police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

Procedure by police upon seizure of property taken under section 51 or stolen.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

Procedure where owner of property seized unknown.

**524.** (1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Presidency Magistrate, District Magistrate or Subdivisional Magistrate, or of a Magistrate of the first class empowered by the Local Government in this behalf.

Procedure where no claimant appears within six months.

(2) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentences of the Court passing such order would lie.

**525.** If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or the

Power to sell perishable property.

(Part IX.—*Supplementary Provisions.* Chap. XLIV.—*Of the Transfer of Criminal Cases.* Sec. 526.)

Magistrate to whom its seizure is reported, is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the nett proceeds of such sale.

## CHAPTER XLIV.

### OF THE TRANSFER OF CRIMINAL CASES.

High Court  
may transfer  
case or itself  
try it.

526. (1) Whenever it is made to appear to the High Court—

- (a) that a fair and impartial enquiry or trial cannot be had in any Criminal Court subordinate thereto, or
- (b) that some question of law of unusual difficulty is likely to arise, or
- (c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or
- (d) that an order under this section will tend to the general convenience of the parties or witnesses, or
- (e) that such an order is expedient for the ends of justice, or is required by any provision of this Code,

it may order—

- (i) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both inclusive), but in other respects competent to inquire into or try such offence;
- (ii) that any particular criminal case or appeal, or class of such cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;
- (iii) that any particular criminal case or appeal be transferred to and tried before itself; or
- (iv) that an accused person be committed for trial to itself or to a Court of Session.

(2) When the High Court withdraws for trial before itself any case from any Court other than the Court of a Presidency Magistrate, it shall, except as provided in section 267, observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

(3) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative.



(Part IX.—*Supplemental Provisions. Chap. XLIV.—Of the Transfer of Criminal Cases. Secs. 527-528.*)

(4) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate-General, be supported by affidavit or affirmation.

(5) When an accused person makes an application under this section, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if convicted, pay the costs of the prosecutor.

(6) Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

Notice to Public Prosecutor of application under this section.

(7) Nothing in this section shall be deemed to affect any order made under section 197.

(8) If, in any criminal case or appeal, before the commencement of the hearing, the Public Prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending, his intention to make an application under this section in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal.

Adjournment on application under this section.

**527.** (1) The Governor General in Council may, by notification in the Gazette of India, direct the transfer of any particular criminal case or appeal from one High Court<sup>1</sup> to another High Court, or from any Criminal Court subordinate to one High Court to any other Criminal Court of equal or superior jurisdiction subordinate to another High Court, whenever it appears to him that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

Power of Governor General in Council to transfer criminal cases and appeals.

(2) The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

**528.** (1) Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

District or Subdivisional Magistrate may withdraw or refer cases.

<sup>1</sup> For the purposes of this section, the Court of the Recorder of Rangoon is to be deemed to be a High Court, *see* the Lower Burma Courts Act, 1889 (XI of 1889), s. 48, printed, Burma Code, Ed. 1899.

(Part IX.—Supplementary Provisions. Chap. XLV.—Of Irregular Proceedings. Secs. 529-530.)

Power to  
authorise  
District  
Magistrate  
to withdraw  
classes of  
cases.

(2) The Local Government may authorise the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

(3) A Magistrate making an order under this section shall record in writing his reasons for making the same.

(4) The head of a village under Madras Regulation IV of 1821<sup>1</sup> is a Magistrate for the purposes of this section.

## CHAPTER XLV.

### OF IRREGULAR PROCEEDINGS.

Irregularities  
which do not  
vitiate pro-  
ceedings.

**529.** If any Magistrate not empowered by law to do any of the following things, namely :—

- (a) to issue a search-warrant under section 98 ;
  - (b) to order, under section 155, the police to investigate an offence ;
  - (c) to hold an inquest under section 176 ;
  - (d) to issue process, under section 186, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits ;
  - (e) to take cognizance of an offence under section 190, sub-section (1), clause (a) or clause (b) ;
  - (f) to transfer a case under section 192 ;
  - (g) to tender a pardon under section 337 or section 338 ;
  - (h) to sell property under section 524 or section 525 ; or
  - (i) to withdraw a case and try it himself under section 528 ;
- erroneously in good faith<sup>2</sup> does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities  
which vitiate  
proceedings.

**530.** If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely :—

- (a) attaches and sells property under section 88 ;
- (b) issues a search-warrant for a letter, parcel or other thing in the Post-office, or a telegram in the Telegraph Department ;
- (c) demands security to keep the peace ;
- (d) demands security for good behaviour ;

<sup>1</sup> Printed, Madras Code, Ed. 1888, p. 80

<sup>2</sup> For definition of "good faith," see the Indian Penal Code (Act XLV of 1860), s. 52 and 76, printed, General Acts, Vol. I, Ed. 1848, p. 240, and the General Clauses Act, 1897 (X of 1897), s. 3 (20), printed, *supra*, p. 316.

(Part IX.—*Supplementary Provisions. Chap XLV.—Of Irregular Proceedings. Secs. 531-533.*)

- (e) discharges a person lawfully bound to be of good behaviour ;
- (f) cancels a bond to keep the peace ;
- (g) makes an order under section 133, as to a local nuisance ;
- (h) prohibits, under section 143, the repetition or continuance of a public nuisance ;
- (i) issues an order under section 144 ;
- (j) makes an order under Chapter XII ;
- (k) takes cognizance, under section 190, sub-section (1), clause (c), of an offence ;
- (l) passes a sentence, under section 319, on proceedings recorded by another Magistrate ;
- (m) calls, under section 435, for proceedings ;
- (n) makes an order for maintenance ;
- (o) revises, under section 515, an order passed under section 514 ;
- (p) tries an offender ;
- (q) tries an offender summarily ; or
- (r) decides an appeal ;

his proceedings shall be void.

**531.** No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceeding in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.

Proceedings  
in wrong  
place.

**532.** (1) If any Magistrate or other authority purporting to exercise powers duly conferred, which were not so conferred, commits an accused person for trial before a Court of Session or High Court, the Court to which the commitment is made may, after perusal of the proceedings, accept the commitment if it considers that the accused has not been injured thereby, unless, during the inquiry and before the order of commitment, objection was made on behalf either of the accused or of the prosecution to the jurisdiction of such Magistrate or other authority.

When irregular commitments may be validated.

(2) If such Court considers that the accused was injured, or if such objection was so made, it shall quash the commitment and direct a fresh inquiry by a competent Magistrate.

**533.** (1) If any Court before which a confession or other statement of an accused person recorded or purporting to be recorded under section 164 or section 364 is tendered or has been received in evidence, finds that any of the

Non-compliance with provisions of section 164 or 364.

(Part IX.—Supplementary Provisions. Chap. XLV.—Of Irregular Proceedings. Secs. 534-537.)

provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded; and, notwithstanding anything contained in the Indian Evidence Act, 1872<sup>1</sup>, section 91, such statement shall be admitted, if the error has not injured the accused as to his defence on the merits. I of 1872.

(2) The provisions of this section apply to Courts of Appeal, Reference and Revision.

Omission to ask question prescribed by section 454 (2).

Effect of omission to prepare charge.

534. An omission to ask any person whether he is an European British subject, in a case to which sub-section (2) of section 454 applies, shall not affect the validity of any proceeding.

535. (1) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed and that the trial be recommenced from the point immediately after the framing of the charge.

Trial by jury of offence triable with assessors.

Trial with assessors of offence triable by jury.

Finding or sentence when reversible by reason of error or omission in charge or other proceedings.

536. (1) If an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid.

(2) If an offence triable by a jury is tried with the aid of assessors, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding.

<sup>2</sup> 537.<sup>3</sup> Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account—

(a) of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or

(b) of the want of or any irregularity in any sanction required by section 195, or any irregularity in proceedings taken under section 476, or

(c) of the omission to revise any list of jurors or assessors in accordance with section 324, or

<sup>1</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 222.

<sup>2</sup> Cf. the Summary Jurisdiction Act, 1847-1848 (11 & 12 Vict., c. 43), s. 9.

<sup>3</sup> In Upper Burma, orders are not reversible on appeal or revision, on technical grounds alone, see the Upper Burma Criminal Justice Regulation, 1892 (V of 1892) Schedule, s. XV. As to European British subjects, however, see s. XVII, *ibid*, Burma Code, Ed. 1899.

(Part IX.—Supplementary Provisions. Chap. XLV.—Of Irregular Proceedings. Sec. 538. Chap. XLVI.—Miscellaneous. Secs. 539-541.)

(d) of any misdirection in any charge to a jury, unless such error, omission, irregularity, want or misdirection has in fact occasioned a failure of justice.

*Explanation.*—In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

#### *Illustration.*

A Magistrate being required by law to sign a document signs it by initials only. This is purely an irregularity, and does not affect the validity of the proceeding.

538. No distress made under this Code shall be deemed-unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress or other proceedings relating thereto.

Distress not illegal nor distrainer a trespasser for defect or want of form in proceedings.

### CHAPTER XLVI.

#### MISCELLANEOUS.

539. Affidavits and affirmations to be used before any High Court or any officer of such Court may be sworn and affirmed before such Court or the Clerk of the Crown, or any Commissioner or other person appointed by such Court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in British India, or any Commissioner to administer oaths in England or Ireland, or any Magistrate authorised to take affidavits or affirmations in Scotland.

Courts and persons before whom affidavits may be sworn.

540. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case

Power to summon material witness, or examine person present.

541. (1) Unless when otherwise provided by any law for the time being in force, the Local Government may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined.

Power to appoint place of imprisonment.

(2) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the

Removal to criminal jail of accused or

convicted persons who are in confinement in civil jail, and their return to the civil jail.

imprisonment or committal may direct that the person be removed to a criminal jail.

(3) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure<sup>1</sup>; or

XIV of 188:

(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure.<sup>1</sup>

XIV of 188:

Power of Presidency Magistrate to order prisoner in jail to be brought up for examination.

542. (1) Notwithstanding anything contained in the Prisoners' Testimony Act, 1869,<sup>2</sup> any Presidency Magistrate desirous of examining, as a witness or an accused person, in any case pending before him, any person confined in any jail, within the local limits of his jurisdiction, may issue an order to the officer in charge of the said jail requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Magistrate for examination.

XV of 1869.

(2) The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the jail for the purpose aforesaid.

Interpreter to be bound to interpret truthfully.

543. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Expenses of complainants and witnesses.

544. Subject to any rules made by the Local Government with the previous sanction of the Governor General in Council, any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.<sup>3</sup>

Power of

<sup>4</sup> 545. (1) Whenever under any law in force for the time being a Criminal

<sup>1</sup> Printed, General Acts, Vol. IV, Ed. 1898, p. 262.

<sup>2</sup> Printed, General Acts, Vol. II, Ed. 1898, p. 103.

<sup>3</sup> For rules made in exercise of these powers, for—

(1) Assam, see the Assam Manual of Local Rules and Orders, Ed. 1893, p. 188.

(2) Bombay, see Bombay List of Local Rules and Orders, Ed. 1897, Vol. I, pp. 393 and 394.

(3) Burma, see Burma Rules Manual, Ed. 1897, p. 107;

(4) Central Provinces, see Central Provinces List of Local Rules and Orders, Ed. 1896, p. 43.

(5) Madras, see Madras List of Local Rules and Orders, Ed. 1898, Vol. I, p. 190;

(6) North-Western Provinces and Oudh, see North-Western Provinces and Oudh List of Local Rules and Orders, Ed. 1894, p. 108.

<sup>4</sup> In Upper Burma, the Court imposing a fine or confirming a sentence of an officer under s. 9 (4) of the Upper Burma Ruby Regulation, 1887 (XII of 1887), may presume, for the purposes of s. 545, that injury has been caused by the offence, and that substantial compensation is recoverable by civil suit in respect to the injury, see s. 9 (5) of that Regulation, printed, Burma Code, Ed. 1899.

(Part IX.—Supplementary Provisions. Chap. XLVI.—Miscellaneous.  
Secs. 546-549.)

Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

Court to pay expenses or compensation out of fine.

- (a) in defraying expenses properly incurred in the prosecution ;
- (b) in compensation for the injury caused by the offence committed, where substantial compensation is, in the opinion of the Court, recoverable by civil suit.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

546. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section 545.

Payments to be taken into account in subsequent suit. Moneys ordered to be paid recoverable as fines. Copies of proceedings.

547. Any money (other than a fine) payable by virtue of any order made under this Code, shall be recoverable as if it were a fine.

548. If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of the Judge's charge to the jury or of any order or deposition or other part of the record, he shall, on applying for such copy, be furnished therewith :

Provided that he pays for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

549. (1) The Governor General in Council may make rules, consistent with this Code and the Army Act<sup>1</sup> or any similar law for the time being in force, as to the cases in which persons subject to military law shall be tried by a Court to which this Code applies, or by Court-martial<sup>2</sup> ; and when any person is brought before a Magistrate and charged with an offence for which he is liable, under the Army Act,<sup>1</sup> section 41, to be tried by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by Court-martial.

Delivery to military authorities of persons liable to be tried by Court-martial.

(2) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at any such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

Apprehension of such persons.

<sup>1</sup> Printed, Collection of Statutes relating to India, Ed. 1881, Supplement, p. 22.

<sup>2</sup> For rules made under this section for delivery to the military authorities of persons charged with offences under s. 41 of the Army Act (44 and 45 Vict., c. 58) for which they are liable to be tried by Court-martial under that Act, see Gazette of India 1887, Pt. I, p. 387. These rules were originally made under s. 549 of that X of 1882 and are kept in force by s. 2 (2) of this Act.

*(Part IX.—Supplementary Provisions. Chap. XLVI.—Miscellaneous.  
Secs. 550-554.)*

Powers to  
police to seize  
property  
suspected to  
be stolen.

550. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

Powers of  
superior  
officers of  
police.

551. Police-officers superior in rank to an officer in charge of a police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

Power to  
compel  
restoration of  
abducted  
females.

552. Upon complaint made to a Presidency Magistrate or District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order using such force as may be necessary.

Compensa-  
tion to per-  
sons ground-  
lessly given  
in charge in  
presidency-  
town.

553. (1) Whenever any person causes a police-officer to arrest another person in a presidency-town, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding fifty rupees, to be paid by the person so causing the arrest, to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

(2) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding fifty rupees, as such Magistrate thinks fit.

(3) All compensation awarded under this section may be recovered as if it were a fine, and, if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

Power of  
chartered  
High Courts  
to make rules  
for inspection  
of records of  
subordinate  
Courts.  
Power of  
other High  
Courts to  
make rules  
for other  
purposes.

554. (1) With the previous sanction of the Governor General in Council, the High Court at Fort William, and, with the previous sanction of the Local Government, any other High Court established by Royal Charter, may, from time to time, make rules for the inspection of the records of subordinate Courts.

(2) Every High Court not established by Royal Charter may, from time to time, and with the previous sanction of the Local Government,—

- (a) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts ;



(Part XI.—Supplementary Provisions. Chap. XLVI.—Miscellaneous.  
Secs. 555-556.)

- (b) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided ;
- (c) <sup>1</sup> make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it ; and
- (d) make rules for regulating the execution of warrants issued under this Code for the levy of fines :

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(3) All rules made under this section shall be published in the local official Gazette.

555. Subject to the power conferred by section 553 <sup>2</sup> and by section 15 Forms.  
of the Indian High Courts Act, 1901,<sup>3</sup> the forms set forth in the fifth schedule,  
with such variation as the circumstances of each case require, may be used for  
the respective purposes therein mentioned, and if used shall be sufficient

556. No Judge or Magistrate shall, except with the permission of the Case in which  
Judge or  
Magistrate is  
personally  
interested.  
Court to which an appeal lies from his Court, try or commit for trial any case  
to or in which he is a party, or personally interested, and no Judge or Magis-  
trate shall hear an appeal from any judgment or order passed or made by  
himself.

*Explanation.*—A Judge or Magistrate shall not be deemed to be a party  
or personally interested, within the meaning of this section, to or in any case  
by reason only that he is a Municipal Commissioner <sup>4</sup> or otherwise concerned  
therein in a public capacity, or by reason only that he has viewed the place in  
which an offence is alleged to have been committed, or any other place in which  
any other transaction material to the case is alleged to have occurred, and made  
an inquiry in connection with the case.

*Illustration.*

A, as Collector, upon consideration of information furnished to him, directs the prosecu-  
tion of B for a breach of the Excise Laws. A is disqualified from trying this case as a  
Magistrate.

<sup>1</sup> In Upper Burma, rules under s. 554 (2) (c) may regulate (a) fees for processes, and (b) the fees to be paid for copies and inspection of records, *see* the Upper Burma Criminal Justice Regulation, 1892 (V of 1892), Schedule, s. XVI, printed, Burma Code, Ed. 1899.

<sup>2</sup> *Sic*, read "554."

<sup>3</sup> Printed, Collection of Statutes relating to India, Ed. 1881, Vol. II, p. 713.

<sup>4</sup> Or a member of a District Board in the Punjab, *see* s. 58 of the Punjab District Boards Act, 1883 (XX of 1883), printed, Punjab Code, Ed. 1883, p. 166.

Or a member of a Municipal Committee in the Punjab, *see* s. 188 of the Punjab Municipal Act, 1891 (XX of 1891); in Burma, *see* the Burma Municipal Act, 1898 (Burma Act III of 1898); and in the Central Provinces, *see* the Central Provinces Municipal Act, 1889 (XVIII of 1889), s. 144, printed, Central Provinces Code, Ed. 1891, p. 327.

(Part IX.—Supplementary Provisions Chap. XLVI.—Miscellaneous.  
Secs. 557-562.)

Practising  
pleader not  
to sit as  
Magistrate in  
certain Courts.  
Power to de-  
cide language  
of Courts.

557. No pleader who practises in the Court of any Magistrate in a presidency-town or district, shall sit as a Magistrate in such Court or in any Court within the jurisdiction of such Court.

558. The Local Government may determine what, for the purposes of this Code, shall be deemed to be the language of each Court within the territories administered by such Government, other than the High Courts established by Royal Charter.

Powers of  
Governor  
General in  
Council and  
Local Govern-  
ment exer-  
ciseable from  
time to time.

559. All powers conferred by this Code on the Governor General in Council or on the Local Government may be exercised from time to time as occasion requires.

Officers con-  
cerned in sales  
not to pur-  
chase or bid  
for property.  
Special provi-  
sions with  
respect to  
offence of  
rape by a  
husband.

560. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

561. (1) Notwithstanding anything in this Code, no Magistrate except a Chief Presidency Magistrate or District Magistrate shall—

- (a) take cognizance of the offence of rape where the sexual intercourse was by a man with his wife, or
- (b) commit the man for trial for the offence.

(2) And, notwithstanding anything in this Code, if a Chief Presidency Magistrate or District Magistrate deems it necessary to direct an investigation by a police-officer with respect to such an offence as is referred to in sub-section (1), no police-officer of a rank below that of police-inspector shall be employed either to make, or to take part in, the investigation.

#### *First Offenders.*

Power to  
Court to  
release upon  
probation of  
good conduct  
instead of  
sentencing to  
punishment.

562. In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating, or any other offence under the Indian Penal Code <sup>1</sup> punishable with not more than two years' imprisonment before any Court, and no previous conviction is proved against him, if it appears to the Court before whom he is so convicted, that, regard being had to the youth, character and antecedents of the offender, to the trivial nature of the offence and to any extenuating circumstances under which the offence was committed, it is expedient that the offender be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties, and during such period (not exceeding one year) as the Court may direct, to appear and receive sentence when called upon, and in the meantime to keep the peace and be of good behaviour :

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(Part IX.—Supplementary Provisions. Chap. XLVI.—Miscellaneous.  
Secs. 563-565.)

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by the Local Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Subdivisional Magistrate, forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 380.

563. (1) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

Provision in case of offender failing to observe conditions of his recognizances.

(2) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

564. (1) The Court, before directing the release of an offender under section 562, shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

Conditions as to abode of offender.

(2) Nothing in this section or in sections 562 and 563 shall affect the provisions of section 31 of the Reformatory Schools Act, 1897.<sup>1</sup>

*Previously convicted Offenders.*

565. (1) When any person, having been convicted of any offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code<sup>2</sup> with imprisonment for a term of three years or upwards, is again convicted of any offence punishable under either of those Chapters with imprisonment for a term of three years or upwards by a High Court, Court of Session, Presidency Magistrate, District Magistrate, Subdivisional Magistrate, or any Magistrate of the first class specially empowered by the Local Government in this behalf, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of transportation or imprisonment on such person, also order that his residence and any change of residence after release be notified, as hereinafter provided, for a term not exceeding five years from the date of the expiration of such sentence.

Order for notifying address of previously convicted offender.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

<sup>1</sup> Printed, *supra*, p. 304.

<sup>2</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(3) The Local Government, with the previous sanction of the Governor General in Council, may make rules to carry out the provisions of this section relating to the notification of residence by released convicts.

(4) Any person refusing or neglecting to comply with any rule so made shall be punishable as if he had committed an offence under section 176 of the Indian Penal Code.<sup>1</sup>

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### SCHEDULE I.

#### ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Short title or subject.	Extent of repeal
1875	X	High Courts' Criminal Procedure .	The whole.
1882	X	The Code of Criminal Procedure, 1882.	The whole.
1884	III	The Criminal Procedure Code Amendment Act, 1884.	The whole.
1886	X	Amending the Code of Criminal Procedure, 1882, and certain other Acts.	Sections 1 to 19 (both inclusive).
1887	V	Amending the Code of Criminal Procedure, 1882.	The whole.
"	XIV	The Indian Marine Act, 1887 .	Section 78.
1889	I	The Metal Tokens Act, 1889 .	Section 7.
"	V	Abolishing the office of Coroner of Madras.	Section 4, sub-section (1). <sup>2</sup>
"	XI	The Lower Burma Courts Act, 1889.	So much of the second schedule as relates to the Code of Criminal Procedure, 1882.
"	XIII	The Cantonments Act, 1889 . .	So much of the schedule as relates to the Code of Criminal Procedure, 1882.
1891	III	Amending the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1882.	Section 9.
"	IV	Amending the Code of Criminal Procedure, 1882.	The whole.
"	X	Amending the Indian Penal Code and the Code of Criminal Procedure, 1882.	Sections 2 and 3.
"	XII	The Repealing and Amending Act, 1891.	So much as relates to the Code of Criminal Procedure, 1882.
1894	III	Amending the Code of Criminal Procedure, 1882, and the Indian Penal Code.	Sections 1 to 4 (both inclusive).
"	X	Amending the Code of Criminal Procedure, 1882.	The whole.
1895	IV	Amending sections 366 and 371 of the Code of Criminal Procedure, 1882.	The whole.
1896	XIII	Amending the Code of Criminal Procedure, 1882.	The whole.

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>2</sup> See also the Repealing and Amending Act, 1891 (XII of 1891), printed, *supra*, p. 32.

## (Schedule II.—Tabular Statement of Offences. Chap. V.—Abetment.)

## SCHEDULE II.

## TABULAR STATEMENT OF OFFENCES.

EXPLANATORY NOTE.—The entries in the second and seventh columns of this schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

The third column of this schedule applies also to the police in the towns of Calcutta and Bombay.

## CHAPTER V.—ABETMENT.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether the offence is bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code. <sup>1</sup>	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Schedule II.—Tabular Statement of Offences. Chap. V.—Abetment.)

## SCHEDULE II—continued.

## CHAPTER V.—ABETMENT—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code. <sup>1</sup>	By what Court triable.
*1, V of 1800.							
111	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence intended to be abetted.	The Court by which the offence abetted is triable.
113	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Ditto .	Ditto .	Ditto .	Ditto	The same punishment as for the offence committed.	Ditto.
114	Abetment of any offence, if abettor is present when offence is committed.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto	Ditto.
115	Abetment of an offence, punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto .	Ditto .	Not bailable.	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. V.—Abetment.)

	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 14 years and fine.	Ditto.
If an act which causes harm be done in consequence of the abetment.							
116 Abetment of an offence, punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto	Ditto		According as the offence is bailable or not.	Ditto	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Ditto	Ditto		Ditto	Ditto	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
117 Abetting the commission of an offence by the public, or by more than ten persons.	Ditto	Ditto		Ditto	Ditto	Imprisonment of either description for three years, or fine, or both.	Ditto.
118 Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto	Ditto		Not bailable.	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. V.—Abetment.)

SCHEDULE II—continued.  
CHAPTER V.—ABETMENT—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code, 1	By what Court triable.
118— <i>contd.</i>	If the offence be not committed.	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	Not bailable.	According as the offence is compounded or not.	Imprisonment of either description for 3 years and fine.	The Court by which the offence abetted is triable.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto . . . . .	Ditto . . . . .	According as the offence abetted is bailable or not.	Ditto . . . . .	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation for life.	Ditto . . . . .	Ditto . . . . .	Not bailable.	Ditto . . . . .	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed.	Ditto . . . . .	Ditto . . . . .	According as the offence abetted is bailable or not.	Ditto . . . . .	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.



(Schedule II.—Tabular Statement of Offences. Chap. V.—Abetment. Chap. VI.—Offences against the State)

CHAPTER VI.—OFFENCES AGAINST THE STATE.						
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .
	If the offence be not committed.	Ditto .	Ditto .	Ditto .	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Death or transportation for life, and forfeiture of property.
121A	Conspiring to commit certain offences against the State.	Ditto .	Ditto .	Ditto .	Ditto .	Transportation for life or any shorter term, or imprisonment of either description for 10 years.
122	Collecting arms, etc., with the intention of waging war against the Queen.	Ditto .	Ditto .	Ditto .	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.

(Schedule II.—Tabular Statement of Offences. Chap. VI—Offences against the State.)

SCHEDULE II.—continued.

CHAPTER VI.—OFFENCES AGAINST THE STATE—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code. 1	By what Court triable.
XLV of 1860.							
123	Concealing with intent to facilitate a design to wage war.	Shall not arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
124	Assaulting Governor, General, Governor, etc., with intent to compel or restrain the exercise of any lawful power.	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Sedition . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Court of Session, Chief Presidency Magistrate or District Magistrate or Magistrate of the first class specially empowered by the Local Government in that behalf.

## (Schedule II.—Tabular Statement of Offences. Chap. VI.—Offences against the State.)

125	Waging war against any Asiatic Power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto	Ditto	Ditto	Ditto	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Court of Session.
126	Committing depredation on the territories of any power in alliance or at peace with the Queen.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation mentioned in sections 125 and 126.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
128	Public servant voluntarily allowing prisoner of State or war in his custody to escape.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or war in his custody to escape.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
130	Aiding escape of rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto	Ditto	Ditto	Not bailable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

(Schedule II.—Tabular Statement of Offences. Chap. VII.—Offences relating to the Army and Navy.)

SCHEDULE II—continued.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
131	Abetting mutiny, or attempting to seduce an officer, soldier or sailor from his allegiance or duty.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto	Ditto	Ditto	Ditto	Death, or transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
133	Abetment of an assault by an officer, soldier or sailor on his superior officer, when in the execution of his office.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chap. VII.—Offences relating to the Army and Navy. Chap. VIII.—Offences against the Public Tranquillity.)

	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
134	Abetment of such assault, if the assault is committed.	Ditto	Ditto	Ditto	Ditto	Ditto	President or Magistrate of the first or second class.
135	Abetment of the desertion of an officer, soldier or sailor.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
136	Harbouring such an officer, soldier or sailor who has deserted.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
137	Deserter concealed on board merchant-vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons	Ditto	Ditto	Fine of 500 rupees	Ditto
138	Abetment of act of insubordination by an officer, soldier or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILITY.

	May arrest without warrant.	Summons	Bailable	Not punishable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
143	Being member of an unlawful assembly.					

(Schedule II.—Tabular Statement of Offences. Chap. VIII.—Offences  
against the Public Tranquillity.)

SCHEDULE II—continued.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall be issued in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable
XLV of 1900.							
144	Joining an unlawful assembly armed with any deadly weapon.	May arrest without warrant.	Warrant	Bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both	Any Magistrate.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.
147	Rioting.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.
148	Rioting armed with a deadly weapon.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

## (Schedule II.—Tabular Statement of Offences. Chap. VIII.—Offences against the Public Tranquillity.)

149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	Ditto	The same as for the offence.	The Court by which the offence is triable.
150	Hiring, engaging or employing person, to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged or employed.	Ditto	Ditto	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto	Summons	Bailable	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, etc.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

(Schedule II.—Tabular Statement of Offences. Chap. VIII.—Offences against the Public Tranquillity)

SCHEDULE II—continued.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code. <sup>1</sup>	By what Court triable.
153— <i>contd.</i>	If not committed	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
153A	Promoting enmity between classes.	Shall not arrest without warrant.	Warrant	Not bailable.	Ditto	Imprisonment of either description for 2 years, or fine, or both.	President Magistrate or Magistrate of the first class.
154	Owner or occupier of land not giving information of riot, etc.	Ditto	Summons	Bailable	Ditto	Fine of 1,000 rupees	President Magistrate or Magistrate of the first or second class.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto	Ditto	Ditto	Ditto	Fine	Ditto.



(Schedule II.—Tabular Statement of Offences. Chap. VIII.—Offences against the Public Tranquillity. Chap. IX.—Offences by or relating to Public Servants.)

156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto .	Ditto .	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.
159	Or to go armed .	Ditto .	Warrant	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons	Ditto .	Imprisonment of either description for one month, or fine of 100 rupees, or both.	Any Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons	Bailable .	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .

(Schedule II.—Tabular Statement of Offences. Chap. IX.—Offences by or relating to Public Servants.)

SCHEDULE II—continued.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
163	Taking a gratification for the exercise of personal influence with a public servant.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
165	Public servant obtaining any valuable thing without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

## (Schedule II.—Tabular Statement of Offences. Chap. IX.—Offences by or relating to Public Servants.)

166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Count of Session, Presidency Magistrate or Magistrate of the first class.
168	Public servant unlawfully engaging in trade.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	President Magistrate or Magistrate of the first class.
169	Public servant unlawfully buying or bidding for property.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant.	May arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. X.—Contempts of the lawful authority of Public Servants.)

SCHEDULE II—continued.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily be issued in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
XLV of 1860.							
172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If summons or notice require attendance in person, etc., in a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If summons, etc., require attendance in person, etc., in a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

## (Schedule II.—Tabular Statement of Offences. Chap. X.—Contempts of the lawful authority of Public Servants.)

174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal attendance, etc., in a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. X.—Contempts of the lawful authority of Public Servants.)

SCHEDULE II.—continued.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
	If the notice or information required respects the commission of an offence, etc.	Ditto.	Ditto.	Ditto.	Ditto.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
	Knowingly furnishing false information to a public servant.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.
177	If the information required respects the commission of an offence, etc.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. X.—Contempts of the lawful authority of Public Servants.)

	Refusing oath when duly required to take oath by a public servant.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, a Presidency Magistrate or Magistrate of the first or second class.
178		Ditto					
179	Being legally bound to state truth, and refusing to answer questions.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 years, and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chap. X.—Contempts of the lawful authority of Public Servants.)

SCHEDULE II—continued.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorised sale,	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.



(Schedule II.—Tabular Statement of Offences. Chap. X.—Contempts of the lawful authority of Public Servants.)

186	or bidding without intending to perform the obligations incurred thereby.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Obstructing public servant in discharge of his public functions.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Omission to assist public servant when bound by law to give such assistance.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.
	Willfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, etc.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, etc.	Ditto	Ditto	Ditto	Ditto		

(Schedule II.—Tabular Statement of Offences. Chap. X.—Contempts of the lawful authority of Public Servants. Chap. XI.—False Evidence and Offences against Public Justice.)

SCHEDULE II—continued.  
CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—concluded.

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Shall not arrest without warrant	Summons	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine or both.	Presidency Magistrate of the first or second class.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

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CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

198	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

*(Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence  
and Offences against Public Justice.)*

194	Giving or fabricating false evidence in any other case.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto	Ditto	Not bailable.	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Sessions.
	If innocent person be thereby convicted and executed.	Ditto	Ditto	Ditto	Ditto	Death or as above	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation for life or with imprisonment for 7 years or upwards.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable	The same as for the offence.	Ditto.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto	Ditto	As in the offence of giving such evidence, when it is bailable or not.	Ditto	The same as for giving false evidence.	Court of Sessions, Presidency Magistrate or Magistrate of the first class.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto	Ditto	Bailable	Ditto	The same as for giving false evidence.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence and Offences against Public Justice.)

SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the case or not.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
198	Using as a true certificate one known to be false in a material point.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	The same as for giving false evidence.	Court of Session, Presidency Magistrate or Magistrate of the first class.
199	False statement made in any declaration which is by law receivable as evidence.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life or imprisonment for 10 years.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or

*(Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence,  
and Offences against Public Justice.)*

202	If punishable with less than 10 years' imprisonment.	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
203	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto	Summons	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
204	Giving false information respecting an offence committed.	Ditto	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
205	Secreting or destroying any document to prevent its production as evidence.	Ditto	Ditto	Ditto	Ditto	Presidency Magistrate or Magistrate of the first class.
206	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence and Offences against Public Justice.)

SCHEDULE II.—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
206	Fraudulent removal or concealment, etc., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Shall not arrest without warrant.	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.	Presidency Magistrate or Magistrate of the first class.

*Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence  
and Offences against Public Justice.)*

209	False claim in a Court of Justice.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 2 years and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.
	If offenders charged be punishable with imprisonment for 7 years or upwards.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If offence charged be capital, or punishable with transportation for life.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Court of Session.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence and Offences against Public Justice.)

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code 1	By what Court triable.
212— <i>contd.</i>	If punishable with transportation for life, or with imprisonment for ten years.	May arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with imprisonment for 1 year and not for ten years.	Ditto	Ditto	Ditto	Ditto	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
213	Taking gift, etc., to screen an offender from punishment, if the offence be capital. If punishable with transportation for life or with imprisonment for 10 years.	Shall not arrest without warrant. Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine. Imprisonment of either description for 3 years and fine.	Court of Session. Court of Session, Presidency Magistrate or Magistrate of the first class.



## (Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence and Offences against Public Justice.)

214	If with imprisonment for less than 10 years.	Ditto .	Ditto .	Ditto .	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
	Offering gift or restoration of property in consideration of screening offender, if the offence be capital.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto .	Ditto .	Ditto .	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class, or Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence and Offences against Public Justice.)

SCHEDULE II—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code. <sup>1</sup>	By what Court triable.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Warrant	Bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If punishable with transportation for life or with imprisonment for 10 years.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 3 years, with or without fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment for a quarter of the longest term, and of the description, provided for the offence, or fine, or both.	Presidency Magistrate or Magistrate of the first class or Court by which the offence is triable.
216A	Harbouring robbers or dacoits.	Ditto.	Ditto.	Ditto.	Ditto.	Rigorous imprisonment for 7 years and fine.	Court of Session, Presidency Magistrate or

	Magistrate of the first class.	P r e s i d e n c y M a g i s t r a t e or M a g i s - t r a t e of the first or sec- ond class. Court of Ses- sion.
217 Public servant disobeying a direction of law with intent to save person from punishment, or pro- perty from forfeiture.	Ditto	Imprisonment of either description for 2 years, or fine, or both.
218 Public servant fram- ing an incorrect re- cord or writing with intent to save person from punishment, or property from for- feiture.	Ditto	Imprisonment of either description for 3 years, or fine, or both.
219 Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or de- cision which he knows to be contrary to law.	Ditto	Imprisonment of either description for 7 years, or time, or both.
220 Commitment for trial or confinement by a person having author- ity, who knows that he is acting contrary to law.	Ditto	Ditto
221 Intentional omission to apprehend on the part of a public ser- vant bound by law to apprehend an offender, if the offence be capital.	Ditto	Imprisonment of either description for 7 years, with or without fine.

(Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence and Offences against Public Justice.)

SCHEDULE II.—continued.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code. <sup>1</sup>	By what Court triable.
221— <i>contd.</i>	If punishable with transportation for life or imprisonment for 10 years.	Shall not arrest without warrant.	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 3 years, with or without fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 2 years, with or without fine.	Presidency Magistrate or Magistrate of the first or second class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a	Ditto.	Ditto.	Not bailable.	Ditto.	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.

(Schedule II.—*Tubular Statement of Offences. Chap. XI.—False Evidence and Offences against Public Justice.*)

	Court of Justice if under sentence of death.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of transportation or penal servitude for life, or transportation, imprisonment or penal servitude for 10 years or upwards.	Ditto .	Ditto .	Bailable .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
223	Escape from confinement negligently suffered by a public servant.	Ditto .	Summons .	Ditto .	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence and Offences against Public Justice.)

SCHEDULE II.—continued.  
CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code. <sup>1</sup>	By what Court triable.
225— <i>contd.</i>							
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	If charged with a capital offence.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
	If the person is sentenced to transportation for life, or to transportation, penal servitude or imprisonment for 10 years or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
	If under sentence of death.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

*Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence  
and Offences against Public Justice.)*

225A	Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for— (a) in case of intentional omission or sufferance ;	Shall not arrest without warrant.	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	(b) in case of negligent omission or sufferance.	Ditto	Summons	Ditto	Ditto	Simple imprisonment for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
225B	Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.	May arrest without warrant.	Warrant	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto
226	Unlawful return from transportation.	Ditto	Ditto	Not bailable.	Ditto	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	Court of Session

(Schedule II.—Tabular Statement of Offences. Chap. XI.—False Evidence and Offences against Public Justice.)

SCHEDULE II.—continued.  
CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—concluded.

1	2	3	4	5	6	7	8
Section.	Offen .	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons .	Not bailable.	Not compoundable.	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	The Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto .	Ditto .	Bailable .	Ditto	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV.
229	Personation of a juror or assessor.	Ditto .	Ditto .	Ditto .	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first class.



(Schedule II.—Tabular Statement of Offences. Chap. XII.—Offences relating to Coin and Government Stamps.)

## CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
231	Counterfeiting, or performing any part of the process of counterfeiting, coin.					
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying or selling instrument for the purpose of counterfeiting coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
234	Making, buying or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chap. XII.—Offences relating to Coin and Government Stamps.)

SCHEDULE II—continued.  
CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not	Punishment under the Indian Penal Code.	By what Court triable.
235— <i>contd.</i>	If Queen's coin	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
236	Abetting in British India the counterfeiting out of British India of coin.	Ditto	Ditto	Ditto	Ditto	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.
237	Import or export of counterfeit coin, knowing the same to be counterfeit	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
238	Import or export of the counterfeits of the Queen's coin knowing the same to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years and fine.	Court of Session

## (Schedule II.—Tabular Statement of Offences. Chap. XII.—Offences relating to Coin and Government Stamps.)

233	Having any counterfeit coin known to be such when it came into possession, and delivering, etc., the same to any person.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 5 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
240	The same with respect to the Queen's coin.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	President Magistrate or Magistrate of the first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 7 years and fine.	Ditto.

(Schedule II. Tabular Statement of Offences. Chap. XII.—Offences relating to Coin and Government Stamps.)

SCHEDULE II—continued.  
CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code <sup>1</sup>	By what Court triable.
244	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.

## (Schedule II.—Tabular Statement of Offences. Chap. XII.—Offences relating to Coin and Government Stamps.)

249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	President or Magistrate of the first or second class.
255	Counterfeiting a Government stamp.	Ditto	Ditto	Bailable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

(Schedule II.—Tabular Statement of Offences. Chap. XII.—Offences relating to Coin and Government Stamps.)

SCHEDULE II.—continued.  
CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.—concluded.

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code <sup>1</sup>	By what Court triable
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	May arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session
257	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
258	Sale of counterfeit Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XII.—Offences relating to Coin and Government Stamps. Chap. XIII.—Offences relating to Weights and Measures.)

261	Effacing any writing from a substance bearing a Government stamp, or removing a stamp used for it with intent to cause loss to Government.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both	Ditto.
262	Using a Government stamp known to have been before used.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	President Magistrate or Magistrate of the first or second class.
263	Erasure of mark denoting that stamp has been used.	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
263A	Fictitious stamps.	Ditto .	Ditto .	Ditto .	Fine of 200 rupees.	President Magistrate or Magistrate of the first class.
264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons	Bailable .	Not compoundable.	President Magistrate or Magistrate of the first or second class.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

(Schedule II.—Tabular Statement of Offences. Chap. XIII.—Offences relating to Weights and Measures. Chap. XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

SCHEDULE II—continued.  
CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
265	Fraudulent use of false weight or measure.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
266	Being in possession of false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENTY AND MORALS.

Section.	Offence.	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.



(Schedule II.—Tabular Statement of Offences. Chap. XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink intended for sale, so as to make the same noxious.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 6 months or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink, knowing the same to be noxious.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XIII.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

SCHEDULE II.—continued.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENTY AND

MORALS—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto.	Ditto.	Ditto.	Fine of 500 rupees.	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, et c.	May arrest without warrant.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 6 months or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, etc.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.	Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chap. XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

		Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
281	Exhibition of a false light, mark or buoy.	Ditto					
282	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life.	Ditto	Summons	Ditto		Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
283	Causing danger, obstruction or injury in any public way or line of navigation.	Ditto	Ditto	Ditto		Fine of 200 rupees.	Ditto
284	Dealing with any poisonous substance, so as to endanger human life, etc.	Shall not arrest without warrant.	Ditto	Ditto		Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, etc.	May arrest without warrant.	Ditto	Ditto		Ditto	Any Magistrate.
286	So dealing with any explosive substance.	Ditto	Ditto	Ditto		Ditto	Ditto.
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto	Ditto		Ditto	Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chap. XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.)

SCHEDULE II.—continued.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance	Whether bailable or not	Whether compoundable or not	Punishment under the Indian Penal Code. <sup>1</sup>	By what Court triable
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Shall not arrest without warrant	Summons	Bailable	Not compoundable.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto	Any Magistrate.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Fine of 200 rupees.	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto	Ditto	Ditto	Simple imprisonment for 6 months, or fine, or both.	Presidency Magistrate or Magistrate of the

(Schedule II.—Tabular Statement of Offences. Chap. XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals. Chap. XV.—Offences relating to Religion.)

							first second class.
292	Sale, etc., of obscene books, etc.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene books, etc., for sale or exhibition.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
294	Obscene songs	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
294A	Keeping a lottery office.	Shall not arrest without warrant.	Summons	Ditto	Ditto	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries.	Ditto	Ditto	Ditto	Ditto	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	President or Magistrate of the first or second class.
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(Schedule II.—Tabular Statement of Offences. Chap. XV.—Offences relating to Religion.)

SCHEDULE II—continued.  
CHAPTER XV.—OFFENCES RELATING TO RELIGION—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
296	Causing a disturbance to an assembly engaged in religious worship.	May arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	President Magistrate or Magistrate of the first or second class. Ditto.
297	Trespassing in place of worship or sepulture, disturbing funeral, with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto	Ditto	Compoundable.	Ditto	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Offences affecting Life.)

## CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

*Of Offences affecting Life.*

	May arrest without war- rant.	Warrant	Not bail- able.	Not com- poundable.	Death, or transportation for life, and fine	Court of Ses- sion.
302 Murder . . .						
303 Murder by a person under sentence of transportation for life.	Ditto .	Ditto .	Ditto .	Ditto .	Death . .	Ditto.
304 Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Transportation for life, or imprison- ment of either de- scription for 10 years and fine	Ditto
If act is done with knowledge that it is likely to cause death, but without any in- tention to cause death, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A Causing death by rash or negligent act.	Ditto .	Ditto .	Bailable.	Ditto	Imprisonment of either description for 2 years, or fine, or both	Court of Ses- sion, Presi- dency Mag- istrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Offences affecting Life.)

SCHEDULE II—continued.  
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—continued.  
*Of Offences affecting Life—continued.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall exclusively issue in the first instance.	Whether bail- bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
305	Abetment of suicide committed by a child, or insane or delirious person or an idiot, or a person intoxicated.	May arrest without warrant.	Warrant	Not bail- able.	Not com- poundable.	Death, or transpor- tation for life, or imprisonment for 10 years, and fine.	Court of Ses- sion
306	Abetting the commis- sion of suicide.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto
307	Attempt to murder	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto
	If such act cause hurt to any person.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or as above.	Ditto.
	Attempt by life-convict to murder, if hurt is caused.	Ditto	Ditto	Ditto	Ditto	Death or as above	Ditto.
308	Attempt to commit culpable homicide.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto



(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Offences affecting Life. Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.)

309	If such act cause hurt to any person.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto
	Attempt to commit suicide.	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	President or Magistrate of the first or second class.
311	Being a thug	Ditto	Ditto	Not bailable.	Transportation for life and fine	Court of Session.

*Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.*

312	Causing miscarriage	Shall not arrest without warrant.	Warrant	Bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent.	Ditto	Ditto	Not bailable.	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.)

SCHEDULE II—continued.									
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—continued.									
<i>Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births—continued.</i>									
1	2	3	4	5	6	7	8		
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.		
314	Death caused by an act done with intent to cause miscarriage. If act done without woman's consent.	Shall not arrest without warrant. Ditto	Warrant. Ditto	Not bailable. Ditto	Not compoundable. Ditto	Imprisonment of either description for 10 years and fine. Transportation for life, or as above.	Court of Session. Ditto.		
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years, or fine, or both.	Ditto.		
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.		
317	Exposure of a child under 12 years of age by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	Ditto	Bailable	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Ditto.		

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of the Causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births. Of Hurt.)

318	Concealment of birth by secret disposal of dead body.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
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*Of Hurt.*

323	Voluntarily causing hurt.	May not be arrested without warrant.	Summons	Bailable	Compoundable.	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May be arrested without warrant.	Ditto	Ditto	Compoundable when prosecution is given by the Court before which a prosecution is pending.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

(Schedule II. -- Tabular Statement of Offences. Chap. XVI — Offences affecting the Human Body. Of Hurt.)

SCHEDULE II—continued.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—continued.

Of Hurt—continued.

1	2	3	4	5	6	7	8
Section	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	May arrest without warrant.	Summons	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session
328	Administering stupefying drug with intent to cause hurt, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

## (Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Hurt.)

330	anything which is illegal, or which may facilitate the commission of an offence. Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Ditto . . .	Litto . . .	Bailable . . .	Ditto . . .	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, etc.	Ditto . . .	Ditto . . .	Not bailable.	Ditto . . .	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto . . .	Ditto . . .	Bailable . . .	Ditto . . .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto . . .	Ditto . . .	Not bailable.	Ditto . . .	Imprisonment of either description for 10 years and fine.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	Summons . . .	Bailable . . .	Compoundable.	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.

1 Printed, General Acts, Ed. 1898, Vol. I, p. 240.

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Hurt.)

SCHEDULE II.—continued.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—continued.

Of Hurt—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code. <sup>1</sup>	By what Court triable.
XIV of 1860.							
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons	Bailable	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
336	Doing any act which endangers human life or the personal safety of others.	Ditto	Ditto	Ditto	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, etc.	Ditto	Ditto	Ditto	Compoundable when permission is given by the Court	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Hurt. Of Wrongful Restraint and Wrongful Confinement.)

338	Causing grievous hurt by an act which endangers human life, etc.	Ditto .	Ditto .	Ditto .	before which a prosecution is pending.	Imprisonment of either description for 2 years, or fine of 1,000 rupees or both.	Ditto.
<i>Of Wrongful Restraint and Wrongful Confinement.</i>							
341	Wrongfully restraining any person.	May arrest without warrant.	Summons	Bailable .	Compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
342	Wrongfully confining any person.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Presidency Magistrate or Magistrate of the first or second class
343	Wrongfully confining for three or more days.	Ditto .	Ditto .	Ditto .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

<sup>1</sup> Printed, General Acts, Ed. 1858, Vol. I, p. 240.

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Wrongful Restraint and Wrongful Confinement.)

SCHEDULE II—continued.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—continued.  
Of Wrongful Restraint and Wrongful Confinement—concluded.

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
346	Wrongful confinement in secret.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, etc.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.



(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Criminal Force and Assault.)

*Of Criminal Force and Assault.*

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons	Bailable	Compoundable.	Imprisonment of either description for 8 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant	Ditto	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Ditto	Compoundable.	Ditto	Ditto.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Criminal Force and Assault. Of Kidnapping, Abduction, Slavery and Forced Labour.)

SCHEDULE II—continued.  
CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—continued.  
*Of Criminal Force and Assault—concluded.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code. <sup>1</sup>	By what Court triable
353	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons	Bailable	Compoundable.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Any Magistrate.

XLY of 1860.

*Of Kidnapping, Abduction, Slavery and Forced Labour.*

363	Kidnapping	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
364	Kidnapping or abduction in order to murder.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Kidnapping, Abduction, Slavery and Forced Labour.)

		Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Punishment for kidnapping or abduction.	Ditto
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session.
371	Habitual dealing in slaves.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Kidnapping, Abduction, Slavery and Forced Labour.)

SCHEDULE II.—continued.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—concluded.

*Of Kidnapping, Abduction, Slavery and Forced Labour—concluded.*

1	2	3	4	5	6	7	8
V of 60.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code 1	By what Court triable.
372	Selling or letting to hire a minor for purposes of prostitution, etc.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
373	Buying or obtaining possession of a minor for the same purposes.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
374	Unlawful compulsory labour.	Ditto	Ditto	Bailable	Compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

(Schedule II.—Tabular Statement of Offences. Chap. XVI.—Offences affecting the Human Body. Of Rape. Of Unnatural Offences. Chap. XVII.—Offences against Property. Of Theft.)

*Of Rape.*

376	Rape— If the sexual intercourse was by a man with his own wife.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
	In any other case	May arrest without warrant.	Warrant	Not bailable.	Ditto	Ditto	Ditto.

*Of Unnatural Offences.*

377	Unnatural offences	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
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CHAPTER XVII.—OFFENCES AGAINST PROPERTY.

*Of Theft.*

379	Theft	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
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(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of Theft.)

SCHEDULE II—continued.  
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—continued.  
Of Theft—concluded.

1	2	3	4	5	6	7	8
XIV of 1860.	Section.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code 1	By what Court triable.
	380	Theft in a building, tent or vessel.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.
	381	Theft by clerk or servant of property in possession of master or employer.	Ditto .	Ditto .	Ditto .	Ditto .	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	382	Theft, preparation having been made for causing death, or hurt or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft or to retreating after	Ditto .	Ditto .	Ditto .	Rigorous imprisonment for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences  
against Property. Of Extortion.)

*Of Extortion.*

committing it, or to retaining property taken by it.	Extortion	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
384	Extortion						Ditto.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto	Ditto	Not bailable.	Ditto	Imprisonment of either description for 10 years and fine.	Court of Session
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life or imprisonment for 10 years.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of Extortion. Of Robbery and Dacoity.)

SCHEDULE II.—continued.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—continued.

Of Extortion—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or it summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
388— <i>contd.</i>	If the offence threatened be an unnatural offence.	Shall not arrest without warrant	Warrant	Bailable	Not compoundable.	Transportation for life.	Court of Session.
389	Putting a person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence be an unnatural offence.	Ditto	Ditto	Ditto	Ditto	Transportation for life.	Ditto.

Of Robbery and Dacoity.

392	Robbery	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Rigorous imprisonment for 10 years and fine.	Court of Session, Presidency Mag-
							istry





chedule II.—*Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of Robbery and Dacoity.*)

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—*continued.*

*Of Robbery and Dacoity—concluded.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall be issued in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
399	Making preparation to commit dacoity.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Rigorous imprisonment for 10 years and fine.	Court of Session.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session.

(Schedule II.—*Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of Criminal Misappropriation of Property. Of Criminal Breach of Trust.*)

*Of Criminal Misappropriation of Property.*

	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
403							
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
405	If by clerk or person employed by deceased.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

*Of Criminal Breach of Trust.*

	Criminal breach of trust.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
406							

(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of Criminal Breach of Trust.)

SCHEDULE II—continued.  
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—continued.  
*Of Criminal Breach of Trust—concluded.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code 1	By what Court triable.
407	Criminal breach of trust by a carrier, wharfinger, etc.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
408	Criminal breach of trust by a clerk or servant.	Ditto	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
409	Criminal breach of trust by public servant or by banker, merchant or agent, etc.	Ditto	Ditto	Ditto	Ditto	Transportation for life or imprisonment of either description for 10 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of the Receiving of Stolen Property. Of Cheating.)

Of the Receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
413	Habitually dealing in stolen property.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for one year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences  
against Property. Of Cheating.)

SCHEDULE II.—continued.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY—continued.

Of Cheating—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily be issued in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Shall not arrest without warrant.	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
419	Cheating by personation.	May arrest without warrant.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a valuable security.	Ditto.	Ditto.	Ditto.	Ditto.	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of Fraudulent Deeds and Disposition of Property.)

*Of Fraudulent Deeds and Disposition of Property.*

	Shall not arrest without warrant.	Warrant	Bailable .	Not com- poun- dable.	Imprisonment of either description for 2 years, or fine, or both.	Pre- sidency Magistrate or Magis- trate of the first or sec- ond class.
421 Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.
422 Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.
423 Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.
424 Fraudulent removal or concealment of property, of himself, or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.

22  
22  
22

(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of Mischief.)

SCHEDULE II.—continued.  
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—continued.  
Of Mischief.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
426	Mischief . . .	Shall not arrest without warrant.	Summons .	Bailable .	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto .	Warrant .	Ditto .	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	President Magistrate or Magistrate of the first or second class.
428	Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	May arrest without warrant.	Ditto .	Ditto .	Not compoundable.	Ditto .	Ditto.



(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences  
against Property. Of Mischief.)

	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years, or fine, or both.	Court of Ses- sion, Presi- dency Mag- istrate or Magistrate of the first or second class.
429 Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
430 Mischief by causing diminution of supply of water for agricul- tural purposes, etc.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
431 Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it im- passable or less safe for travelling or con- veying property.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
432 Mischief by causing inundation or ob- struction to public drainage, attended with damage.	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto	Ditto.
433 Mischief by destroying or moving or render- ing less useful a light- house or sea-mark, or by exhibiting false lights.	Ditto	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, or fine, or both.	Court of Ses- sion.

(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of Mischief.)

SCHEDULE II—continued.  
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—continued.  
Of Mischief—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code	By what Court triable.
434	Mischief by destroying or moving, etc., a land-mark fixed by public authority.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	President or Magistrate of the first or second class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards, or, in case of agricultural produce, 10 rupees or upwards.	May arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
436	Mischief by fire or explosive substance with intent to destroy a house, etc.	Ditto	Ditto	Not bailable.	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of Mischief. Of Criminal Trespass.)

437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto	•	Ditto	•	Ditto	•	Imprisonment of either description for 10 years and fine.	Ditto
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto	•	Ditto	•	Ditto	•	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, etc.	Ditto	•	Ditto	•	Ditto	•	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death, or hurt, etc.	Ditto	•	Ditto	•	Ditto	•	Imprisonment of either description for 5 years and fine	Court of Session, Presidency Magistrate or Magistrate of the first class.

*Of Criminal Trespass.*

447	Criminal trespass	May arrest without warrant.	•	Summon	•	Bailable	•	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
448	House-trespass	Ditto	•	Warrant	•	Ditto	•	Ditto	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of Criminal Trespass.)

SCHEDULE II.—continued.  
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—continued.  
Of Criminal Trespass—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
449	House-trespass in order to the commission of an offence punishable with death.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 10 years and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 2 years and fine.	Any Magistrate.
	If the offence is theft.	Ditto	Ditto	Not bailable.	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or



(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences against Property. Of Criminal Trespass.)

SCHEDULE II—continued.  
CHAPTER XVII.—OFFENCES AGAINST PROPERTY—concluded.  
*Of Criminal Trespass—concluded.*

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
456	Lurking house-trespass or house-breaking by night.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 5 years and fine.	Ditto.
	If the offence is theft.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 14 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XVII.—Offences  
against Property. Of Criminal Trespass.)

458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, etc.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Court of Session, Presidency Magistrate or Magistrate of the first class.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Transportation for life, or imprisonment of either description for 10 years and fine.	.	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto	.	Ditto	.	Ditto	.	Bailable	.	Ditto	.	Ditto	.	Imprisonment of either description for 2 years, or fine, or both	.	Presidency Magistrate or Magistrate of the first or second class.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Ditto	.	Imprisonment of either description for 3 years, or fine, or both.	.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.

(Schedule II.—Tabular Statement of Offences. Chap. XVIII.—Offences relating to Documents and to Trade or Property Marks.)

SCHEDULE II.—continued.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

1	2	3	4	5	6	7	8
	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
Section 2. XLV of 1890.							
465	Forgery . . . . .	Shall not arrest without warrant.	Warrant	Bailable .	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both	Court of Session, Presidency Magistrate or Magistrate of the first class.
466	Forgery of a record of a Court of Justice or of a Register of Births, etc., kept by a public servant.	Ditto . . . . .	Ditto . . . . .	Not bailable.	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session.
467	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, etc	Ditto . . . . .	Ditto . . . . .	Ditto . . . . .	Ditto	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto . . . . .	Ditto . . . . .	Ditto	Ditto . . . . .	Ditto.



(Schedule II.—Tabular Statement of Offences. Chap. XVIII.—Offences relating to Documents and to Trade or Property Marks.)

468	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto	Ditto	Ditto	Ditto	Punishment for forgery of such document.	Same Court as that by which the forgery is triable.
472	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto	Ditto	Ditto	Ditto	Court of Session.
	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeited.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XVIII.—Offences relating to Documents and to Trade or Property Marks.)

SCHEDULE II—continued.

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—continued.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
473	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeited.	Shall not arrest without warrant.	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine; if the document is one of the description mentioned in section 468 of the Indian Penal Code.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.
	If the document is one of the description	Ditto.	Ditto.	Ditto.	Ditto.	Transportation for life, or imprison-	Ditto.

(Schedule II.—Tabular Statement of Offences. Chap. XVIII.—Offences relating to Documents and to Trade or Property Marks. Of Trade and Property Marks.)

475	mentioned in section 467 of the Indian Penal Code.	Ditto	Ditto	Ditto	Ditto	ment of either description for 7 years and fine.	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Not bail-able.	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
477	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.
477A	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, etc.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.
	Falsification of accounts.	Ditto	Ditto	Ditto	Ditto	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

*Of Trade and Property Marks.*

482	Using a false trade or property mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment either description for 1 year, or fine, or both.	President of Magistrate or Magistrate of the first or second class

(Schedule II.—Tabular Statement of Offences. Chap. XVIII.—Offences relating to Documents and to Trade or Property Marks. Of Trade and Property Marks.)

SCHEDULE II.—continued.  
CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS—concluded.  
Of Trade and Property Marks—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily be issued in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code, <sup>1</sup>	By what Court triable.
483	Counterfeiting a trade or property mark used by another, with intent to cause damage or injury.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	President Magistrate of the first or second class.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Ditto	Summons	Ditto	Ditto	Imprisonment of either description for 3 years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.
485	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade-mark.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description	President Magistrate

(Schedule II.—Tabular Statement of Offences. Chap. XVIII.—Offences relating to Documents and to Trade or Property Marks. Of Trade and Property Marks. Of Currency-Notes and Bank-Notes.)

	counterfeit property or trade mark.	Ditto .	Ditto .	Ditto .	Ditto .	for 1 year, or fine, or both.	or Magistrate of the first or second class.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, etc.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
488	Making use of any such false mark.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.
489	Removing, destroying or defacing any property-mark with intent to cause injury.	Ditto .	Ditto .	Ditto .	Ditto .	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.

*2 Of Currency-Notes and Bank-Notes.*

	Counterfeiting currency-notes or bank-notes.	May arrest without warrant.	Warrant .	Not bailable.	Not comm-poun-dable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
489A	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto .	Ditto.

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

<sup>2</sup> This portion was added to the Schedule by s. 3 of the Currency Notes Forgery Act, 1899 (XII of 1899) which was passed while this volume was passing through the Press.

(Schedule II.—Tabular Statement of Offences. Chap. XVIII.—Of Currency-Notes and Bank-Notes. Chap. XIX.—Criminal Breach of Contracts of Service.)

SCHEDULE II—continued.  
2 Of Currency-Notes and Bank-Notes—concluded.

1	2	3	4	5	6	7	8
Section.	Offence	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
489C	Possession of forged or counterfeit currency-notes or bank-notes.	May arrest without warrant.	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
489D	Making or possessing instrument's criminal for forging or counterfeiting currency-notes or bank-notes.	Ditto.	Ditto.	Not bailable.	Ditto.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

CHAPTER XIX.—CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490	Being bound by contract to render personal services during a voyage or journey or conveyance of property or person and voluntarily emulating to do so.	Stationary arrest without warrant.	Summons.	Bailable.	Compoundable.	Imprisonment for 1 year, or fine of 100 rupees, or both.	President Magistrate or Magistrate of the first class.
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(Schedule II.—Tabular Statement of Offences. Chap. XIX.—Criminal Breach of Contracts of Service. Chap. XX.—Offences relating to Marriage.)

491	Being bound to attend, or to supply the wants of a person who is he'p'ess from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 3 months or fine of 200 rupees, or both.	Ditto.
492	Being bound by contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and voluntarily deserting the service or refusing to perform the duty.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

## CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
494	Marrying again during the lifetime of a husband or wife.	Ditto	Ditto	Bailable	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.

2 1 2

(Schedule II.—Tabular Statement of Offences. Chap. XX.—Offences relating to Marriage.)

SCHEDULE II—continued.  
CHAPTER XX.—OFFENCES RELATING TO MARRIAGE—concluded.

1	2	3	4	5	6	7	8
XLV of 1900. Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily be issued in the first instance.	Whether bailable or not	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable
495	Same offence with concealment of the fact of the person with whom subsequent marriage is contracted.	Shall not arrest without warrant.	Summons	Not bailable	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of session.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery.	Ditto	Ditto	Bailable	Compoundable.	Imprisonment of either description for 5 years, or fine or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
498	Enticing or taking away or decoying with a criminal intent a married woman.	Ditto	Warrant	Ditto	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.



(Schedule II.—Tabular Statement of Offences. Chap. XXI.—Defamation.  
Chap. XXII.—Criminal Intimidation, Insult and Annoyance.)

## CHAPTER XXI.—DEFAMATION.

500	Defamation . . .	Shall not arrest without warrant.	Warrant . . .	Bailable . . .	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
501	Printing or engraving matter knowing it to be defamatory.	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto . . .	Ditto.

## CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant . . .	Bailable . . .	Compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumour, etc., circulated with intent to cause injury or offence against the public peace.	Ditto . . .	Ditto . . .	Not bailable.	Not compoundable.	Ditto . . .	Presidency Magistrate or Magistrate of the first class.
506	Criminal intimidation . . .	Ditto . . .	Ditto . . .	Bailable . . .	Compoundable.	Ditto . . .	Ditto.

## (Schedule II.—Tabular Statement of Offences. Chap. XXII. — Criminal Intimidation, Insult and Annoyance.)

SCHEDULE II—continued.  
CHAPTER XXII.—CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code 1	By what Court triable
XLV of 1860.							
507	If threat be to cause death or grievous hurt, etc.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first or second class.
509	Uttering any word or making any gesture intended to insult the modesty of a woman. etc.	Ditto	Ditto	Ditto	Ditto	Simple imprisonment for 1 year, or fine, or both.	Presidency Magistrate or Magistrate of the first class.

(Schedule II.—Tabular Statement of Offences. Chap. XXIII.—Attempts to commit Offences. Offences against other Laws.)

## CHAPTER XXIII.—ATTEMPTS TO COMMIT OFFENCES.

510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable	Simple imprisonment for 24 hours or fine of 10 rupees, or both.	Any Magistrate.
511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence is compoundable or not.	Compoundable when the offence attempted is compoundable.	Transportation or imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both.	The Court by which the offence attempted is triable.

## OFFENCES AGAINST OTHER LAWS.

	May arrest without warrant.	Not bailable.	Not compoundable.	Court of Session.
If punishable with death, transportation or imprisonment for 7 years or upwards.	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.
If punishable with imprisonment for 3 years and upwards, but less than 7.	Ditto	Except in cases under the Indian Arms Act, 1878, section 16, which shall be bailable.	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.

xi of 1873.

<sup>1</sup> Printed, General Acts, Vol. I, Ed. 1898, p. 240.

(Schedule II.—Tabular Statement of Offences. Offences against other Laws.)

## SCHEDULE II—concluded.

## OFFENCES AGAINST OTHER LAWS—concluded.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what Court triable.
XL7 of 1860.	If punishable with imprisonment for 1 year and upwards, but less than 8 years.	Shall not arrest without warrant.	Summons .	Bailable .	Not compoundable.	.....	Court of Session, Presidency Magistrate or Magistrate of the first or second class.
	If punishable with imprisonment for less than 1 year, or with fine only.	Ditto .	Ditto .	Ditto .	Ditto .	.....	Any Magistrate.

*(Schedule III.—Ordinary Powers of Provincial Magistrates.)*

## SCHEDULE III.

*(See section 36.)*

## ORDINARY POWERS OF PROVINCIAL MAGISTRATES.

*I.—Ordinary Powers of a Magistrate of the Third Class.*

- (1) Power to arrest or direct the arrest, and to commit to custody, a person committing an offence in his presence, section 64.
- (2) Power to arrest, or direct the arrest in his presence of, an offender, section 65.
- (3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86.
- (4) Power to issue proclamations in cases judicially before him, section 87.
- (5) Power to attach and sell property in cases judicially before him, section 88.
- (6) Power to restore attached property, section 89.
- (7) Power to require search to be made for letters and telegrams, section 95.
- (8) Power to issue search-warrant, section 96.
- (9) Power to endorse a search-warrant and order delivery of thing found, section 99.
- (10) Power to command unlawful assembly to disperse, section 127.
- (11) Power to use civil force to disperse unlawful assembly, section 128.
- (12) Power to require military force to be used to disperse unlawful assembly, section 130.
- (13) Power to record statements or confessions during a police-investigation, section 164.
- (14) Power to authorise detention of a person during a police-investigation, section 167.
- (15) Power to detain an offender found in Court, section 351.
- (16) Power to take cognizance of offence, although committed by European British subject, and to issue process returnable before a Magistrate having jurisdiction, section 445.
- (17) Power to apply to District Magistrate to issue commission for examination of witness, section 506 (2).
- (18) Power to recover forfeited bond for appearance before Magistrate's Court, section 514.
- (19) Power to make order as to disposal of property, section 517.
- (20) Power to sell perishable property of a suspected character, section 525.

*II.—Ordinary Powers of a Magistrate of the Second Class.*

- (1) The ordinary powers of a Magistrate of the third class.
- (2) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155.
- (3) Power to postpone issue of process, section 202.
- (4) Power to order destruction of libellous and other matter, section 521.

*III.—Ordinary Powers of a Magistrate of the First Class.*

- (1) The ordinary powers of a Magistrate of the second class.
- (2) Power to issue search-warrant otherwise than in course of an inquiry, section 98.

*(Schedule III.—Ordinary Powers of Provincial Magistrates.)*SCHEDULE III—*continued.*

- (3) Power to issue search-warrant for discovery of persons wrongfully confined, section 100.
- (4) Power to require security to keep the peace, section 107.
- (5) Power to require security for good behaviour, section 109.
- (6) Power to discharge sureties, section 126.
- (7) Power to make orders, etc., in possession cases, sections 145, 146 and 147.
- (8) Power to commit for trial, section 206.
- (9) Power to stop proceedings when no complainant, section 249.
- (10) Power to make orders of maintenance, sections 488 and 489.
- (11) Power to take evidence on commission, section 503.
- (12) Power to recover penalty on forfeited bond, section 514.
- (13) Power to make order as to first offenders, section 562.

*IV.—Ordinary Powers of a Subdivisional Magistrate.*

- (1) The ordinary powers of a Magistrate of the first class.
- (2) Power to direct warrants to landholders, section 78.
- (3) Power to require security for good behaviour, section 110.
- (4) Power to make orders as to local nuisances, section 133.
- (5) Power to make orders prohibiting repetitions of nuisances, section 143.
- (6) Power to make orders under section 144.
- (7) Power to depute Subordinate Magistrate to make local inquiry, section 148.
- (8) Power to order police-investigation into cognizable cases, section 156.
- (9) Power to receive report of police-officer and pass order, section 173.
- (10) Power to hold inquests, section 174.
- (11) Power to issue process for person within local jurisdiction, who has committed an offence outside the local jurisdiction, section 186.
- (12) Power to entertain complaints, section 190.
- (13) Power to receive police-reports, section 190.
- (14) Power to entertain cases without complaint, section 190.
- (15) Power to transfer cases to a Subordinate Magistrate, section 192.
- (16) Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.
- (17) Power to forward record of inferior Court to District Magistrate, section 435 (2).
- (18) Power to sell property alleged or suspected to have been stolen, etc., section 524.
- (19) Power to withdraw cases other than appeals, and to try or refer them for trial, section 528.
- (20) Power to order released convicts to notify residence, section 565.

*<sup>1</sup> V.—Ordinary Powers of a District Magistrate.*

- (1) The ordinary powers of a Subdivisional Magistrate.
- (2) Power to require delivery of letters, telegrams, etc., section 95.

<sup>1</sup> Under the Punjab Frontier Crimes Regulation, 1887 (IV of 1887), the Additional District Magistrate shall have the powers specified in Part V. See s. 6 (2) of the Regulation, Baluchistan Code, Ed. 1890, p. 53.

(Schedule III.—Ordinary Powers of Provincial Magistrates. Schedule IV.—  
Additional Powers with which Provincial Magistrates may be invested.)

### SCHEDULE III—concluded.

- (3) Power to issue search-warrants for documents in custody of postal or telegraph authorities, section 96.
- (4) Power to require security for good behaviour in case of sedition, section 108.
- (5) Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.
- (6) Power to cancel bond for keeping the peace, section 125.
- (7) Power to try summarily, section 260.
- (8) Power to quash convictions in certain cases, section 350.
- (9) Power to hear appeals from orders requiring security for good behaviour, section 406.
- (10) Power to hear or refer appeals from convictions by Magistrates of the second and third classes, section 407.
- (11) Power to call for records, section 435.
- (12) Power to order commitment, section 436.
- (13) Power to order inquiry into complaint dismissed or case of accused discharged, section 437.
- (14) Power to report case to High Court, section 438.
- (15) Power to try European British subjects, section 443.
- (16) Power to sentence European British subject to more than three months' imprisonment or one thousand rupees fine, or both, section 446.
- (17) Power to appoint person to be public prosecutor in particular case, section 492 (2).
- (18) Power to issue commission for examination of witness, sections 503, 506.
- (19) Power to hear appeals from or revise orders passed under section 514, section 515.
- (20) Power to compel restoration of abducted female, section 552.

### SCHEDULE IV.

(See Sections 37 and 38.)

#### ADDITIONAL POWERS WITH WHICH PROVINCIAL MAGISTRATES MAY BE INVESTED.

POWERS WITH WHICH  
A MAGISTRATE OF  
THE FIRST CLASS  
MAY BE INVESTED. }

BY THE LOCAL  
GOVERNMENT. }

- (1) Power to require security for good behaviour in case of sedition, section 108:
- (2) Power to require security for good behaviour, section 110:
- (3) Power to make orders as to local nuisances, section 133:
- (4) Power to make orders prohibiting repetitions of nuisances, section 143:
- (5) Power to make orders under section 144:
- (6) Power to hold inquests, section 174:
- (7) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186:
- (8) Power to take cognizance of offences upon complaint, section 190:

(Schedule IV.—Additional Powers with which Provincial Magistrates may be invested.)

SCHEDULE IV—continued.

POWERS WITH WHICH  
A MAGISTRATE OF  
THE FIRST CLASS  
MAY BE INVESTED—  
concluded.

BY THE LOCAL GOV-  
ERNMENT—con-  
cluded.

BY THE DISTRICT  
MAGISTRATE.

POWERS WITH WHICH  
A MAGISTRATE OF  
THE SECOND CLASS  
MAY BE INVESTED.

BY THE LOCAL GOV-  
ERNMENT.

- (9) Power to take cognizance of offences upon police reports, section 190.
- (10) Power to take cognizance of offences without complaint, section 190.
- (11) Power to try summarily, section 260.
- (12) Power to hear appeals from convictions by Magistrates of the second and third classes, section 407.
- (13) Power to sell property alleged or suspected to have been stolen, etc., section 524.
- (14) Power to order released convict to notify residence, section 565.
- (15) Power to try cases under section 124A of the Indian Penal Code.
- (1) Power to make orders prohibiting repetitions of nuisances, section 143.
- (2) Power to make orders under section 144.
- (3) Power to hold inquests, section 174.
- (4) Power to take cognizance of offences upon complaint, section 190.
- (5) Power to take cognizance of offences upon police-reports, section 190.
- (6) Power to transfer cases, section 192.
- (1) Power to pass sentences of whipping, section 32.
- (2) Power to make orders prohibiting repetitions of nuisances, section 143.
- (3) Power to make orders under section 144.
- (4) Power to hold inquests, section 174.
- (5) Power to take cognizance of offences upon complaint, section 190.
- (6) Power to take cognizance of offences upon police-reports, section 190.
- (7) Power to take cognizance of offences without complaint, section 190.
- (8) Power to commit for trial, section 206.
- (9) Power to make order as to first offenders, section 502.



(Schedule IV.—Additional Powers with which Provincial Magistrates may be invested. Schedule V.—Forms.)

### SCHEDULE IV—concluded.

POWERS WITH WHICH  
A MAGISTRATE OF  
THE SECOND CLASS  
MAY BE INVESTED—  
*concluded.*

BY THE DISTRICT  
MAGISTRATE.

- (1) Power to make orders prohibiting repetitions of nuisances, section 143.
- (2) Power to make orders under section 144 :
- (3) Power to hold inquests, section 174 :
- (4) Power to take cognizance of offences upon complaint, section 190.
- (5) Power to take cognizance of offences upon police-reports, section 190.
- (1) Power to make orders prohibiting repetitions of nuisances, section 143.
- (2) Power to make orders under section 144.
- (3) Power to hold inquests, section 174 :

BY THE LOCAL GOV-  
ERNMENT.

POWERS WITH WHICH  
A MAGISTRATE OF  
THE THIRD CLASS  
MAY BE INVESTED.

BY THE DISTRICT  
MAGISTRATE.

- (4) Power to take cognizance of offences upon complaint, section 190
- (5) Power to take cognizance of offences upon police-reports, section 190 :
- (6) Power to commit for trial, section 206.
- (1) Power to make orders prohibiting repetitions of nuisances, section 143 :
- (2) Power to make orders under section 144 :
- (3) Power to hold inquests, section 174 :
- (4) Power to take cognizance of offences upon complaint, section 190.
- (5) Power to take cognizance of offences upon police-reports, section 190.
- Power to call for records, section 135.

POWERS WITH WHICH  
A SUBDIVISIONAL  
MAGISTRATE MAY  
BE INVESTED.

BY THE LOCAL GOV-  
ERNMENT.

### SCHEDULE V.

(See section 554.)

#### FORMS.

#### I.—SUMMONS TO AN ACCUSED PERSON.

(See section 68.)

To

of

WHEREAS your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or by pleader, as the case*

may be) before the (Magistrate) of , on  
the day of . Herein fail not.  
Dated this day of , 18 .  
(Seal.) (Signature.)

II.—WARRANT OF ARREST.

(See section 75.)

To (name and designation of the person or persons who is or are to execute the warrant.)

WHEREAS of stands charged with the  
offence of (state the offence), you are hereby directed to arrest the said  
and to produce him before me. Herein fail not  
Dated this day of , 18 .  
(Seal.) (Signature.)

(See section 76.)

*This warrant may be endorsed as follows :—*

If the said shall give bail himself in the sum of , with one surety  
in the sum of (or two sureties each in the sum of ) to attend  
before me on the day of and to continue so to attend  
until otherwise directed by me, he may be released.  
Dated this day of , 18 .  
(Signature.)

III.—BOND AND BAIL-BOND AFTER ARREST UNDER A WARRANT.

(See section 86.)

I, (name), of , being brought before the District Magistrate of  
(or as the case may be) under a warrant issued to compel my appearance to answer to the  
charge of , do hereby bind myself to attend in the Court of  
on the day of next to answer to the said charge, and to  
continue so to attend until otherwise directed by the Court; and, in case of my making  
default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the  
sum of rupees .  
Dated this day of , 18 .  
(Signature.)

I do hereby declare myself surety for the abovenamed of ,  
that he shall attend before in the Court of on the day of  
next to answer to the charge on which he has been arrested, and shall continue so to  
attend until otherwise directed by the Court; and, in case of his making default therein,  
I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .  
Dated this day of , 18 .  
(Signature.)

## IV.—PROCLAMATION REQUIRING THE APPEARANCE OF A PERSON ACCUSED.

(See section 87.)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or is suspected to have committed*) the offence of \_\_\_\_\_, punishable under section \_\_\_\_\_ of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found, and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or is concealing himself to avoid the service of the said warrant*),

Proclamation is hereby made that the said \_\_\_\_\_ of \_\_\_\_\_ is required to appear at (*place*) before this Court (*or before me*) to answer the said complaint within \_\_\_\_\_ days from this date.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.  
(Seal.)

(Signature.)

## V.—PROCLAMATION REQUIRING THE ATTENDANCE OF A WITNESS.

(See section 87.)

WHEREAS complaint has been made before me that (*name, description and address*) has committed (*or is suspected to have committed*) the offence of (*mention the offence concisely*) and a warrant has been issued to compel the attendance of (*name, description and address of the witness*) before this Court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or is concealing himself to avoid the service of the said warrant*);

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the Court of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ next at \_\_\_\_\_ o'clock, to be examined touching \_\_\_\_\_, the offence complained of.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.  
(Seal.)

(Signature.)

## VI.—ORDER OF ATTACHMENT TO COMPEL THE ATTENDANCE OF A WITNESS.

(See section 88.)

To the Police-officer in charge of the Police-station at \_\_\_\_\_

WHEREAS a warrant has been duly issued to compel the attendance of (*name, description and address*) to testify concerning a complaint pending before this Court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (*or is concealing himself to avoid the service of the said warrant*); and thereupon a Proclamation was duly issued and published requiring the said \_\_\_\_\_ to appear and give evidence at the time and place mentioned therein, and he has failed to appear;

This is to authorise and require you to attach by seizure the moveable property belonging to the said \_\_\_\_\_ to the value of rupees \_\_\_\_\_ which you may find within the District of \_\_\_\_\_ and to hold the said property under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 .  
(Seal.)

(Signature.)

#### ORDER OF ATTACHMENT TO COMPEL THE APPEARANCE OF A PERSON ACCUSED.

(See section 88.)

To (name and designation of the person or persons who is or are to execute the warrant.)

WHEREAS complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of \_\_\_\_\_ punishable under section \_\_\_\_\_ of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (name) cannot be found; and whereas it has been shown to my satisfaction that the said (name) has absconded (or is concealing himself to avoid the service of the said warrant), and thereupon a Proclamation was duly issued and published requiring the said \_\_\_\_\_ to appear to answer the said charge within \_\_\_\_\_ days; and whereas the said \_\_\_\_\_ is possessed of the following property other than land paying revenue to Government in the village (or town) of \_\_\_\_\_, in the District of \_\_\_\_\_, viz., \_\_\_\_\_, and an order has been made for the attachment thereof;

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this Court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 .  
(Seal.)

(Signature.)

#### ORDER AUTHORISING AN ATTACHMENT BY THE DEPUTY COMMISSIONER AS COLLECTOR.

(See section 88.)

To the Deputy Commissioner of the District of \_\_\_\_\_

WHEREAS complaint has been made before me that (name, description and address) has committed (or is suspected to have committed) the offence of \_\_\_\_\_, punishable under section \_\_\_\_\_ of the Indian Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (name) cannot be found; and whereas it has been shown to my satisfaction that the said (name) has absconded (or is concealing himself to avoid the service of the said warrant) and thereupon a Proclamation was duly issued and published requiring the said \_\_\_\_\_ to appear to answer the said charge within \_\_\_\_\_ days, but he has not appeared; and whereas the said \_\_\_\_\_ is possessed of certain land paying revenue to Government in the village (or town) of \_\_\_\_\_ in the district of \_\_\_\_\_

You are hereby authorised and requested to cause the said land to be attached and to be held under attachment pending the further order of this Court, and to certify without delay what you may have done in pursuance of this order.

Dated this        day of        , 18 .

(Seal.)

(Signature.)

VII.—WARRANT IN THE FIRST INSTANCE TO BRING UP A WITNESS.

(See section 90.)

To (name and designation of the Police-officer or other person or persons who is or are to execute the warrant).

WHEREAS complaint has been made before me that        of        has (or is suspected to have) committed the offence of (*mention the offence concisely*), and it appears likely that (*name and description of witness*) can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so;

This is to authorise and require you to arrest the said (*name*), and on the day of        to bring him before this Court, to be examined touching the offence complained of.

Given under my hand and the seal of the Court, this        day of        , 18 .

(Seal.)

(Signature.)

VIII.—WARRANT TO SEARCH AFTER INFORMATION OF A PARTICULAR OFFENCE.

(See section 96.)

To (name and designation of the Police-officer or other person or persons who is or are to execute the warrant).

WHEREAS information has been laid (or complaint has been made) before me of the commission (or suspected commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made (or about to be made) into the said offence (or suspected offence);

This is to authorise and require you to search for the said (*the thing specified*) in the (*describe the house or place or part thereof to which the search is to be confined*), and, if found, to produce the same forthwith before this Court, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this        day of        , 18 .

(Seal.)

(Signature.)

IX.—WARRANT TO SEARCH SUSPECTED PLACE OF DEPOSIT.

(See section 98.)

To (name designation of a Police-officer above the rank of a Constable.)

WHEREAS information has been laid before me, and on due inquiry thereupon had I have been led to believe that the (*describe the house or other place*) is used as a place for



## XII.—SUMMONS ON INFORMATION OF A PROBABLE BREACH OF THE PEACE.

(See section 114.)

To \_\_\_\_\_ of \_\_\_\_\_ .  
 WHEREAS it has been made to appear to me by credible information that (*state the substance of the information*), and that you are likely to commit a breach of the peace (*or by which act a breach of the peace will probably be occasioned*), you are hereby required to attend in person (*or by a duly authorised agent*) at the Office of the Magistrate of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees \_\_\_\_\_ [*when sureties are required, add, and also to give security by the bond of one (or two, as the case may be) surety (or sureties) in the sum of rupees \_\_\_\_\_ (each if more than one)*], that you will keep the peace for the term of \_\_\_\_\_.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

(Seal.)

(Signature.)

## XIII.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY TO KEEP THE PEACE.

(See section 123.)

To the Superintendent (*or Keeper*) of the Jail at \_\_\_\_\_.

WHEREAS (*name and address*) appeared before me in person (*or by his authorised agent*) on the \_\_\_\_\_ day of \_\_\_\_\_ in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees \_\_\_\_\_ with one surety (*or a bond with two sureties each in rupees \_\_\_\_\_*), that he, the said (*name*), would keep the peace for the period of \_\_\_\_\_ months; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order;

This is to authorise and require you, the said Superintendent (*or Keeper*), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*) unless he shall in the meantime comply with the said order by himself and his surety (*or sureties*) entering into the said bond, in which case the same shall be received, and the said (*name*) released, and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

(Seal.)

(Signature.)

## XIV.—WARRANT OF COMMITMENT ON FAILURE TO FIND SECURITY FOR GOOD BEHAVIOUR.

(See section 123.)

To the Superintendent (*or Keeper*) of the Jail at \_\_\_\_\_.

WHEREAS it has been made to appear to me that (*name and description*) has been and





the road or public place), by, etc., (state what it is that causes the obstruction or nuisance), and that such obstruction (or nuisance) still exists,

or

WHEREAS it has been made to appear to me that you are carrying on as owner, or manager, the trade or occupation of (state the particular trade or occupation and the place where it is carried on), and that the same is injurious to the public health (or comfort) by reason (state briefly in what manner the injurious effects are caused), and should be suppressed or removed to a different place ;

or

WHEREAS it has been made to appear to me that you are the owner (or are in possession of or have the control over) a certain tank (or well or excavation) adjacent to the public way (describe the thoroughfare), and that the safety of the public is endangered by reason of the said tank (or well or excavation) being without a fence (or insecurely fenced) ;

or

WHEREAS, etc., etc. (as the case may be),

I do hereby direct and require you within (state the time allowed) to (state what is required to be done to abate the nuisance) or to appear at in the Court of on the day of next, and to show cause why this order should not be enforced ;

or

I do hereby direct and require you within (state the time allowed) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, etc. ;

or

I do hereby direct and require you within (state the time allowed) to put up a sufficient fence (state the kind of fence and the part to be fenced) ; or to appear, etc. ;

or

I do hereby direct and require you, etc., etc. (as the case may be).

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

#### XVII. — MAGISTRATE'S ORDER CONSTITUTING A JURY.

(See section 139.)

WHEREAS on the day of , 18 , an order was issued to (name) requiring him (state the effect of the order), and whereas the said (name) has applied to me, by a petition bearing date the day of , for an order appointing a Jury to try whether the said recited order is reasonable and proper ; I do hereby appoint (the names, etc., of the five or more Jurors) to be the Jury to try and decide the said question,

and do require the said Jury to report their decision within \_\_\_\_\_ days from the date  
of this order at my office at \_\_\_\_\_  
Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.  
(Seal.) (Signature.)

XVIII.—MAGISTRATE'S NOTICE AND PREEMPTORY ORDER AFTER THE FINDING BY A  
JURY.

(See section 140.)

To (name, description and address).

I HEREBY give you notice that the Jury duly appointed on the petition presented by  
you on the \_\_\_\_\_ day of \_\_\_\_\_ have found that the order issued on the  
day of \_\_\_\_\_ requiring you (state substantially the requisition in the order) is reason-  
able and proper. Such order has been made absolute, and I hereby direct and require you to  
obey the said order within (state the time allowed), on peril of the penalty provided by the  
Indian Penal Code for disobedience thereto.

(Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.  
(Seal.) (Signature.)

XLV of 1.

XIX.—INJUNCTION TO PROVIDE AGAINST IMMINENT DANGER PENDING INQUIRY BY  
JURY.

(See section 142.)

To (name, description and address).

WHEREAS the inquiry by a Jury appointed to try whether my order issued on the  
\_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_, is reasonable and proper is still pending, and it has been  
made to appear to me that the nuisance mentioned in the said order is attended with so  
imminent serious danger to the public as to render necessary immediate measures to prevent  
such danger, I do hereby, under the provisions of section 142 of the Code of Criminal Pro-  
cedure, direct and enjoin you forthwith to (state plainly what is required to be done as a  
temporary safeguard), pending the result of the local inquiry by the Jury.

(Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.  
(Seal.) (Signature.)

XX.—MAGISTRATE'S ORDER PROHIBITING THE REPETITION, ETC., OF A NUISANCE.

(See section 143.)

To (name, description and address).

WHEREAS it has been made to appear to me that, etc. (state the proper recital, guided  
by Form No. XVI or Form No. XXI, as the case may be);

I do hereby strictly order and enjoin you not to repeat the said nuisance by again plac-  
ing or causing or permitting to be placed, etc. (as the case may be).

[illegible]

## XXI.--MAGISTRATE'S ORDER TO PREVENT OBSTRUCTION, RIOT, ETC.

(See section 141.)

To (name, description and address).

WHEREAS it has been made to appear to me that you are in possession (or have the management) of (*describe clearly the property*), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road;

07'

WHEREAS it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a religious procession along the public street, etc. (*as the case may be*), and that such procession is likely to lead to a riot or an affray ;

07<sup>th</sup>

WHEREAS, etc., etc., (as the case may be) ;

I do hereby order you not to place or permit to be placed any of the earth or stones dug from land on any part of the said road ;

07°

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (or as the case recited may require).

[illegible]

## XXII.--MAGISTRATE'S ORDER DECLARING PARTY ENTITLED TO RETAIN POSSESSION OF LAND, ETC., IN DISPUTE.

(See section 145.)

It appearing to me, on the grounds duly recorded, that a dispute, likely to induce a breach of the peace, existed between (*describe the parties by name and residence, or residence only if the dispute be between bodies of villagers*) concerning certain (*state concisely the subject of dispute*), situate within the local limits of my jurisdiction, all the said parties were called upon to give in a written statement of their respective claims as to the fact of actual possession of the said (*the subject of dispute*), and being satisfied by due inquiry had thereupon, without reference to the merits of the claim of either of the said parties to the legal right of possession, that the claim of actual possession by the said (*name or names or description*) is true;

I do decide and declare that he is (or they are) in possession of the said (the subject of dispute) and entitled to retain such possession until ousted by due course of law, and do strictly forbid any disturbance of his (or their) possession in the meantime.



## XXV.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A POLICE-OFFICER.

(See section 169.)

I, (name), of , being charged with the offence of , and after inquiry required to appear before the Magistrate of ,

or

and after inquiry called upon to enter into my own recognizance to appear when required do hereby bind myself to appear at , in the Court of , on the day of next (or on such day as I may hereafter be required to attend) to answer further to the said charge, and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

I hereby declare myself (or we jointly and severally declare ourselves and each of us) surety (or sureties) for the abovesaid that he shall attend at , in the Court of , on the day of next (or on such day as he may hereafter be required to attend), further to answer to the charge pending against him, and, in case of his making default therein, I hereby bind myself (or we hereby bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

## XXVI.—BOND TO PROSECUTE OR GIVE EVIDENCE.

(See section 170.)

I, (name), of (place), do hereby bind myself to attend at in the Court of , at o'clock on the day of next and then and there to prosecute (or to prosecute and give evidence) (or to give evidence) in the matter of a charge of against one A. B., and, in case of making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this day of , 18 .

(Signature.)

## XXVII.—NOTICE OF COMMITMENT BY MAGISTRATE TO GOVERNMENT PLEADER.

(See section 218.)

The Magistrate of hereby gives notice that he has committed one for trial at the next Sessions ; and the Magistrate hereby instructs the Government Pleader to conduct the prosecution of the said case.

The charge against the accused is that, etc. (state the offence as in the charge).

Dated this day of , 18 .

(Signature.)

## XXVIII.—CHARGES.

(See sections 221, 222, 223.)

## (1)—CHARGES WITH ONE HEAD.

(a) I, [name and office of Magistrate, etc.], hereby charge you [name of accused person] as follows.—

(b) that you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, waged war against Her Majesty the Queen, Empress of India, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session [when the charge is framed by a Presidency Magistrate, for Court of Session substitute High Court].

(c) And I hereby direct that you be tried by the said Court on the said charge.

[Signature and seal of the Magistrate.]

[To be substituted for (b)] :—

(2) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, with the intention of inducing the Hon'ble A. B., Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court]

(3) That you, being a public servant in the \_\_\_\_\_ Department, directly accepted from [state the name], for another party [state the name], a gratification other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(4) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, did [or omitted to do, as the case may be], such conduct being contrary to the provisions of Act \_\_\_\_\_, section \_\_\_\_\_, and known by you to be prejudicial to \_\_\_\_\_, and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(5) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the course of the trial of \_\_\_\_\_, before \_\_\_\_\_, stated in evidence that "\_\_\_\_\_," which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(6) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed culpable homicide not amounting to murder, causing the death of \_\_\_\_\_, and thereby committed an

On section 304.

offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(7) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(8) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, voluntarily caused grievous hurt to \_\_\_\_\_, and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(9) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, robbed [*state the name*], and thereby committed an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(10) That you on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed dacoity, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

[In cases tried by Magistrates substitute "within my cognizance" for "within the cognizance of the Court of Session," and in (c) omit "by the said Court."]

#### (II)—CHARGES WITH TWO OR MORE HEADS.

(a) I, [*name and office of Magistrate, etc.*], hereby charge you [*name of accused person*] as follows:—

(b) *First.*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

*Secondly.*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(c) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[To be substituted for (b)]:—

(2) *First.*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed murder by causing the death of \_\_\_\_\_, and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

*Secondly*—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, by causing the death of \_\_\_\_\_, committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(3) *First*.—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

*Secondly*.—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

*Thirdly*.—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

*Fourthly*.—That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

(4) That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, Alternative charges on section 193 in the course of the inquiry into \_\_\_\_\_, before \_\_\_\_\_, stated in evidence that “\_\_\_\_\_,” and that you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, in the course of the trial of \_\_\_\_\_, before \_\_\_\_\_, stated in evidence that “\_\_\_\_\_” one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session [or High Court].

[In cases tried by Magistrates substitute “within my cognizance” for “within the cognizance of the Court of Session” and in (c) omit “by the said Court”.]

### (III)—CHARGE FOR THEFT AFTER PREVIOUS CONVICTION.

I, (name and office of Magistrate, etc.), hereby charge you (name of accused person) as follows:—

That you, on or about the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_, committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session [or { High Court } Magistrate ] as the case may be].

And you, the said (name of accused), stand further charged that you before the committing of the said offence, that is to say, on the \_\_\_\_\_ day of \_\_\_\_\_, had been



convicted by the (state Court by which conviction was had) at \_\_\_\_\_ of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the accused was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 75 of the Indian Penal Code.

And I hereby direct that you be tried, etc.

XXXIX.—WARRANT OF COMMITMENT ON A SENTENCE OF IMPRISONMENT OR FINE IF  
PASSED BY A MAGISTRATE.

(See sections 245 and 258.)

To the Superintendent (or Keeper) of the Jail at \_\_\_\_\_.

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, (*name of prisoner*), the (1st 2nd, 3rd, as the case may be) prisoner in case No. \_\_\_\_\_ of the Calendar for 18\_\_\_\_, was convicted before me (*name and official designation*) of the offence of (*mention the offence or offences concisely*) under section (or sections) of the Indian Penal Code (or of Act \_\_\_\_\_), and was sentenced to (*state the punishment fully and distinctly*);

This is to authorise and require you, the said Superintendent (or Keeper), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand and the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

(Seal.)

(Signature.)

XXX.—WARRANT OF IMPRISONMENT ON FAILURE TO RECOVER AMENDS BY DISTRESS.

(See section 250.)

To the Superintendent (or Keeper) of the Jail at \_\_\_\_\_.

WHEREAS (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*), and the same has been dismissed as frivolous (or vexatious), and the order of dismissal awards payment by the said (*name, of complainant*) of the sum of rupees \_\_\_\_\_ as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the moveable property of the said (*name of complainant*) and an order has been made for his simple imprisonment in jail for the period of \_\_\_\_\_ days, unless the aforesaid sum be sooner paid;

This is to authorise and require you, the said Superintendent (or Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), subject to the provisions of section 69 of the Indian Penal Code, unless the said sum be sooner paid, and on the receipt thereof forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

(Seal.)

(Signature.)

## XXXI.—SUMMONS TO WITNESS.

(See sections 68 and 252.)

To \_\_\_\_\_ of \_\_\_\_\_,  
 WHEREAS complaint has been made before me that \_\_\_\_\_ of \_\_\_\_\_ has  
 (or is suspected to have) committed the offence of *(state the offence concisely with time and place)*, and it appears to me that you are likely to give material evidence for the prosecution,  
 You are hereby summoned to appear before this Court on the \_\_\_\_\_ day  
 of \_\_\_\_\_ next at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 18 .

(Seal.)

(Signature.)

## XXXII.—PRECEPT TO DISTRICT MAGISTRATE TO SUMMON JURORS AND ASSESSORS.

(See section 326.)

To the District Magistrate of \_\_\_\_\_.

WHEREAS a Criminal Session is appointed to be held in the Court-house at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ next, and the names of the persons herein stated have been duly drawn by lot from among those named in the revised list of jurors and assessors furnished to this Court; you are hereby required to summon the said persons to attend at the said Court of Session at 10 A.M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

(Here enter the names of Jurors and Assessors.)

Given under my hand and the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_, 18 .

(Seal.)

(Signature.)

## XXXIII.—SUMMONS TO ASSESSOR OR JUROR.

(See section 328.)

To (name) of (place).

PURSUANT to a precept directed to me by the Court of Session of \_\_\_\_\_ requiring your attendance as an Assessor (or a Juror) at the next Criminal Session, you are hereby summoned to attend at the said Court of Session at (place) at ten o'clock in the forenoon on the \_\_\_\_\_ day of \_\_\_\_\_ next.

Given under my hand and the seal of office, this \_\_\_\_\_ day of \_\_\_\_\_, 18 .

(Seal.)

(Signature.)

## XXXIV.—WARRANT OF COMMITMENT UNDER SENTENCE OF DEATH.

(See section 374.)

To the Superintendent (or Keeper) of the Jail at \_\_\_\_\_.

WHEREAS at the Session held before me on the \_\_\_\_\_ day of \_\_\_\_\_,

## (Schedule V.—Forms.)

18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was duly convicted of the offence of culpable homicide amounting to murder under section of the Indian Penal Code, and sentenced to suffer death, subject to the confirmation of the said sentence by the Court of ;

This is to authorise and require you, the said Superintendent (*or Keeper*), to receive the said (*prisoner's name*) into your custody in the said Jail, together with this warrant, and him there safely to keep until you shall receive the further warrant or order of this Court, carrying into effect the order of the said Court.

Given under my hand and the seal of the Court, this day of ,

18 .

(Seal.)

(Signature.)

## XXXV.—WARRANT OF EXECUTION ON A SENTENCE OF DEATH.

(See section 381.)

To the Superintendent (*or Keeper*) of the Jail at .

WHEREAS (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the Session held before me on the day of , 18 , has been by a warrant of this Court, dated the day of , committed to your custody under sentence of death ; and whereas the order of the

Court of confirming the said sentence has been received by this Court ;

This is to authorise and require you, the said Superintendent (*or Keeper*), to carry the said sentence into execution by causing the said to be hanged by the neck until he be dead, at (*time and place of execution*), and to return this warrant to the Court with an endorsement certifying that the sentence has been executed.

Given under my hand and the seal of the Court, this day of ,

18 .

(Seal.)

(Signature.)

## XXXVI.—WARRANT AFTER A COMMUTATION OF A SENTENCE.

(See sections 381 and 382.)

To the Superintendent (*or Keeper*) of the Jail at .

WHEREAS at a Session held on the day of , 18 , (*name of prisoner*), the (1st, 2nd, 3rd, *as the case may be*) prisoner in case No. of the Calendar at the said Session, was convicted of the offence of punishable under section of the Indian Penal Code, and sentenced to , and was thereupon committed to your custody ; and whereas by the order of the Court of (a duplicate of which is hereunto annexed) the punishment adjudged by the said sentence has been commuted to the punishment of transportation for life (*or as the case may be*) ;

This is to authorise and require you, the said Superintendent (*or Keeper*), safely to keep the said (*prisoner's name*) in your custody in the said jail, as by law is required, until he shall be delivered over by you to the proper authority and custody for the purpose of his undergoing the punishment of transportation under the said order,

or

if the mitigated sentence is one of imprisonment, say, after the words "custody in the said jail," "and there to carry into execution the punishment of imprisonment under the said order according to law."

Given under my hand and the seal of the Court, this                      day of                      ,  
18                      .  
(Seal.)                      (Signature.)

## XXXVII.—WARRANT TO LEVY A FINE BY DISTRESS AND SALE.

(See section 386.)

To (name and designation of the Police-officer or other person or persons who is or are to execute the warrant.)

WHEREAS (name and description of the offender) was on the                      day of                      , 18                      , convicted before me of the offence of (mention the offence concisely), and sentenced to pay a fine of rupees                      , and whereas the said (name), although required to pay the said fine, has not paid the same or any part thereof ;

This is to authorise and require you to make distress by seizure of any moveable property belonging to the said (name) which may be found within the district of                      ; and, if within (state the number of days or hours allowed) next after such distress the said sum shall not be paid (or forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said fine, returning this warrant, with an endorsement certifying what you have done under it immediately upon its execution.

Given under my hand and the seal of the Court, this                      day of                      , 18                      .  
(Seal)                      (Signature.)

## XXXVIII.—WARRANT OF COMMITMENT IN CERTAIN CASES OF CONTEMPT WHEN A FINE IS IMPOSED.

(See section 480.)

To the Superintendent (or Keeper) of the Jail at                      .

WHEREAS at a Court holden before me on this day (name and description of the offender) in the presence (or view) of the Court committed wilful contempt ;

And whereas for such contempt the said (name of offender) has been adjudged by the Court to pay a fine of rupees                      , or in default to suffer simple imprisonment for the space of (state the number of months or days) ;

This is to authorise and require you, the Superintendent (or Keeper) of the said Jail, to receive the said (name of offender) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (term of imprisonment), unless the said fine be sooner paid ; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this                      day of                      ,  
18                      .  
(Seal.)                      (Signature.)

## XXXIX.—MAGISTRATE'S OR JUDGE'S WARRANT OF COMMITMENT OF WITNESS REFUSING TO ANSWER.

(See section 485.)

To (name and designation of officer of Court).

WHEREAS (name and description), being summoned (or brought before this Court) as a witness and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (or certain questions) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (term of detention adjudged);

This is to authorise and require you to take the said (name) into custody, and him safely to keep in your custody for the space of \_\_\_\_\_ days, unless in the meantime he shall consent to be examined and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this Court to be dealt with according to law, returning this warrant with an endorsement certifying the manner of its execution.

(Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 18 .

(Seal.)

(Signature.)

## XLI.—WARRANT OF IMPRISONMENT ON FAILURE TO PAY MAINTENANCE.

(See section 488.)

To the Superintendent (or Keeper) of the Jail at \_\_\_\_\_.

WHEREAS (name, description and address) has been proved before me to be possessed of sufficient means to maintain his wife (name) [or his child (name), who is by reason of (state the reason) unable to maintain herself (or himself)] and to have neglected (or refused) to do so, and an order has been duly made requiring the said (name) to allow to his said wife (or child) for maintenance the monthly sum of rupees \_\_\_\_\_; and whereas it has been further proved that the said (name) in wilful disregard of the said order has failed to pay rupees \_\_\_\_\_, being the amount of the allowance for the month (or months) of \_\_\_\_\_: And thereupon an order was made adjudging him to undergo simple (or rigorous) imprisonment in the said jail for the period of \_\_\_\_\_;

This is to authorise and require you, the said Superintendent (or Keeper), to receive the said (name) into your custody in the said jail, together with this warrant, and there carry the said order into execution according to law, returning this warrant with an endorsement certifying the manner of its execution.

(Given under my hand and the seal of the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 18 .

(Seal.)

(Signature.)

## XLI.—WARRANT TO ENFORCE THE PAYMENT OF MAINTENANCE BY DISTRESS AND SALE.

(See section 488.)

To (name and designation of the Police-officer or other person to execute the warrant).

WHEREAS an order has been duly made requiring (name) to allow to his said wife (or

## (Schedule V.—Forms.)

child) for maintenance the monthly sum of rupees , and whereas the said (*name*) in wilful disregard of the said order has failed to pay rupees , being the amount of the allowance for the month (or months) of ;

This is to authorise and require you to make distress by seizure of any moveable property belonging to the said (*name*) which may be found within the district of , and if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (or forthwith), to sell the moveable property distrained, or so much thereof as shall be sufficient to satisfy the said sum, returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand and the seal of the Court, this                      day of  
18 .

(Seal.)

(Signature.)

## XLII.—BOND AND BAIL-BOND ON A PRELIMINARY INQUIRY BEFORE A MAGISTRATE.

(See sections 496 and 499.)

I, (*name*), of (*place*), being brought before the Magistrate of (*as the case may be*), charged with the offence of , and required to give security for my attendance in his Court and at the Court of Session, if required, do bind myself to attend at the Court of the said Magistrate on every day of the preliminary inquiry into the said charge and, should the case be sent for trial by the Court of Session, to be, and appear, before the said Court when called upon to answer the charge against me; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this                      day of                      , 18 .

(Signature.)

I hereby declare myself (or we jointly and severally declare ourselves and each of us) surety (or sureties) for the said (*name*) that he shall attend at the Court of                      on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial by the Court of Session, that he shall be, and appear, before the said Court to answer the charge against him, and, in case of his making default therein, I bind myself (or we bind ourselves) to forfeit to Her Majesty the Queen, Empress of India, the sum of rupees .

Dated this                      day of                      , 18 .

(Signature.)

## XLIII.—WARRANT TO DISCHARGE A PERSON IMPRISONED ON FAILURE TO GIVE SECURITY.

(See section 500.)

To the Superintendent (or Keeper) of the Jail at

(or other officer in whose custody the person is).

WHEREAS (*name and description of prisoner*) was committed to your custody under warrant of this Court, dated the                      day of , and has since with his surety (or sureties) duly executed a bond under section 499 of the Code of Criminal Procedure ;

*(Schedule V.—Forms.)*

This is to authorise and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Given under my hand and the seal of the Court, this

day of

, 18 .

(*Seal.*)

(*Signature.*)

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XLIV.—WARRANT OF ATTACHMENT TO ENFORCE A BOND.

(*See section 514.*)

To the Police-officer in charge of the Police-station at

WHEREAS (*name, description and address of person*) has failed to appear on (*mention the occasion*) pursuant to his recognizance, and has by such default forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*); and whereas the said (*name of person*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him;

This is to authorise and require you to attach any moveable property of the said (*name*) that you may find within the district of , by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached or so much if it as may be sufficient to realise the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this

day of

, 18 .

(*Seal.*)

(*Signature.*)

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XLV.—NOTICE TO SURETY ON BREACH OF A BOND.

(*See section 514.*)

To of

WHEREAS on the day of , 18 , you became surety for (*name*) of (*place*) that he should appear before this Court on the day of and bound yourself in default thereof to forfeit the sum of rupees to Her Majesty the Queen, Empress of India; and whereas the said (*name*) has failed to appear before this Court, and by reason of such default you have forfeited the aforesaid sum of rupees ;

You are hereby required to pay the said penalty or show cause, within days from this date, why payment of the said sum should not be enforced against you.

(Given under my hand and the seal of the Court, this day of , 18 .

(*Seal.*)

(*Signature.*)

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XLVI.—NOTICE TO SURETY OF FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To of

WHEREAS on the day of , 18 , you became surety by a bond for (*name*) of (*place*) that he would be of good behaviour for the period of and bound yourself in default thereof to forfeit the sum of rupees to Her

Majesty the Queen, Empress of India ; and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security bond has become forfeited ;

You are hereby required to pay the said penalty of rupees , or to show cause within days why it should not be paid.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

#### XLVII.—WARRANT OF ATTACHMENT AGAINST A SURETY.

(See section 511.)

To of .

WHEREAS (*name, description and address*) has bound himself as surety for the appearance of (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Queen, Empress of India, the sum of rupees (*the penalty in the bond*) ;

This is to authorise and require you to attach any moveable property of the said (*name*) which you may find within the district of , by seizure and detention ; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realise the amount aforesaid, and make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)

#### XLVIII.—WARRANT OF COMMITMENT OF THE SURETY OF AN ACCUSED PERSON ADMITTED TO BAIL.

(See section 511.)

To the Superintendent (*or Keeper*) of the Civil Jail at .

WHEREAS (*name and description of surety*) has bound himself as a surety for the appearance of (*state the condition of the bond*) and the said (*name*) has therein made default whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen, Empress of India ; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of moveable property of his, and an order has been made for his imprisonment in the civil jail for (*specify the period*) ;

This is to authorise and require you, the said Superintendent (*or Keeper*), to receive the said (*name*) into your custody with this warrant and him safely to keep in the said jail for the said (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this day of , 18 .

(Seal.)

(Signature.)



## (Schedule V.—Forms.)

## XLIX.—NOTICE TO THE PRINCIPAL OF FORFEITURE OF A BOND TO KEEP THE PEACE.

(See section 514.)

To (name, description and address).

WHEREAS on the       day of       , 18       , you entered into a bond not to commit, etc. (as in the bond), and proof of the forfeiture of the same has been given before me and duly recorded ;

You are hereby called upon to pay the said penalty of rupees       , or to show cause before me within       days why payment of the same should not be enforced against you.

Dated this       day of       , 18       .

(Seal.)

(Signature.)

## L.—WARRANT TO ATTACH THE PROPERTY OF THE PRINCIPAL ON BREACH OF A BOND TO KEEP THE PEACE.

(See section 514.)

To (name and designation of Police-officer) at the Police-station of       .

WHEREAS (name and description) did, on the       day of       , 18       , enter into a bond for the sum of rupees       binding himself not to commit a breach of the peace, etc. (as in the bond), and proof of the forfeiture of the said bond has been given before me and duly recorded ; and whereas notice has been given to the said (name) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum ;

This is to authorise and require you to attach by seizure moveable property belonging to the said (name) to the value of rupees       which you may find within the district of       , and, if the said sum be not paid within       , to sell the property so attached, or so much of it as may be sufficient to realise the same ; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand and the seal of the Court, this       day of       , 18       .

(Seal.)

(Signature.)

## LI.—WARRANT OF IMPRISONMENT ON BREACH OF A BOND TO KEEP THE PEACE.

(See section 514.)

To the Superintendent (or Keeper) of the Civil Jail at       .

WHEREAS proof has been given before me and duly recorded that (name and description) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees       ; and whereas the said (name) has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (name) in the civil jail for the period of (term of imprisonment) ;

This is to authorise and require you, the said Superintendent (or Keeper) of the said civil jail, to receive the (name) into your custody, together with this warrant, and him safely to

keep in the said jail, for the said period of (*term of imprisonment*); and to return that warrant with an endorsement certifying the manner of its execution.

(Given under my hand and the seal of the Court, this      day of      , 18      .

(*Seal.*)

(*Signature.*)

### LII.—WARRANT OF ATTACHMENT AND SALE ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To the Police-officer in charge of the Police-station at      .

WHEREAS (*name, description and address*) did, on the      day of      , 18      , give security by bond in the sum of rupees      for the good behaviour of (*name, etc., of the principal*), and proof has been given before me and duly recorded of the commission by the said (*name*) of the offence of      whereby the said bond has been forfeited; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum;

This is to authorise and require you to attach by seizure moveable property belonging to the said (*name*) to the value of rupees      which you may find within the district of      , and if the said sum be not paid within      , to sell the property so attached or so much of it as may be sufficient to realise the same, and to make return of what you have done under this warrant immediately upon its execution.

(Given under my hand and the seal of the Court, this      day of      , 18      .

(*Seal.*)

(*Signature.*)

### LIII.—WARRANT OF IMPRISONMENT ON FORFEITURE OF BOND FOR GOOD BEHAVIOUR.

(*See section 514.*)

To the Superintendent (*or* Keeper) of the Civil Jail at      .

WHEREAS (*name, description and address*) did, on the      day of      , 18      , give security by bond in the sum of rupees      for the good behaviour of (*name, etc., of the principal*), and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (*name*) has forfeited to Her Majesty the Queen, Empress of India, the sum of rupees      , and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid although duly called upon to do so, and payment thereof cannot be enforced by attachment of his moveable property, and an order has been made for the imprisonment of the said (*name*) in the civil jail for the period of (*term of imprisonment*);

This is to authorise and require you, the Superintendent (*or* Keeper), to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in the said jail for the said period of (*term of imprisonment*), returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand and the seal of the Court, this      day of      , 18      .

(*Seal.*)

(*Signature.*)

## THE INDIAN POST OFFICE ACT, 1898.

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ACT No. VI of 1898.<sup>1</sup>

[22nd March, 1898.]

## An Act to consolidate and amend the Law relating to the Post Office in India.

WHEREAS it is expedient to consolidate and amend the law relating to the Post Office in India ; It is hereby enacted as follows :—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Indian Post Office Act, 1898.
- (2) It extends to the whole of British India, inclusive of \* \* \*,<sup>2</sup> British Baluchistan, the Santhál Parganas and the Pargana of Spiti ; and it applies also to—
  - (a) all Native Indian subjects of Her Majesty in any place without and beyond British India ;
  - (b) all other British subjects within the territories of any Native Prince or Chief in India ; and
  - (c) all servants of the Queen, whether British subjects or not, within the territories of any Native Prince or Chief in India.
- (3) It shall come into force on the first day of July, 1898.
2. In this Act, unless there is anything repugnant in the subject or con-  
text,—
  - (a) the expression “ Director General ” means the Director General of the Post Office of India :
  - (b) the expression “ inland,” used in relation to a postal article, means—
    - (i) posted in British India and addressed to any place in British

Short title,  
extent, appli-  
cation and  
commence-  
ment.

Definitions

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 385 ; for Report of the Select Committee, see *ibid.*, 1898, Pt. V, p. 211 ; for Proceedings in Council, see *ibid.*, 1897, Pt. VI, p. 249 ; *ibid.*, 1898, Pt. VI, pp. 23, 99, and 285 to 289.

The Act has been applied, under s. 3(2) of the Chin Hills Regulation, 1896 (V of 1896), to tracts in which ss. 2 and 4 to 41 of the Regulation have been applied, see Burma Gazette, 1898, Pt. I, p. 420.

It has been declared to be applicable to members of a Hill-tribe in a Hill-tract under s. 3(2) of the Kachin Hill Tribes Regulation, 1895 (I of 1895), see Burma Gazette, 1898, Pt. I, p. 564.

It was declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule, printed Burma Code, Ed. 1899.

As to rules made under the Post Office Act, which are now in force or are in force from time to time, see the Indian Postal Guide, which is published by the Post Office half-yearly.

<sup>2</sup> The words “ Upper Burma ” were repealed by the Burma Laws Act, 1898 (XIII of 1898), see the Fifth Schedule.

*(Chap. I.—Preliminary. Sec. 2.)*

India or to any place for which a post office is established by the Governor General in Council beyond the limits of British India ; or

- (ii) posted at any post office established by the Governor General in Council beyond the limits of British India and addressed to any place for which any such post office is established or to any place in British India .
- (c) the expression " mail bag " includes a bag, box, parcel or any other envelope or covering in which postal articles in course of transmission by post are conveyed, whether it does or does not contain any such article :
- (d) the expression " mail ship " means a ship employed for carrying mails, pursuant to contract or continuing arrangement, by the Government of India or Her Majesty's Government or the Government of any British possession or foreign country :
- (e) the expression " officer of the Post Office " includes any person employed in any business of the Post Office or on behalf of the Post Office :
- (f) the expression " postage " means the duty chargeable for the transmission by post of postal articles :
- (g) the expression " postage stamp " means any stamp provided by the Governor General in Council for denoting postage or other fees or sums payable in respect of postal articles under this Act, and includes adhesive postage stamps and stamps printed, embossed, impressed or otherwise indicated on any envelope, wrapper, postcard or other article :
- (h) the expression " post office " includes every house, building, room, carriage or place used for the purposes of the Post Office, and every letter-box provided by the Post Office for the reception of postal articles :
- (i) the expression " postal article " includes a letter, postcard, newspaper, book, pattern or sample packet, parcel and every article or thing transmissible by post :
- (j) the expression " Post Master General " includes a Deputy Post Master General or other officer exercising the powers of a Post Master General : and
- (k) the expression " the Post Office " means the department presided over by the Director General.



(Chap. I.—Preliminary. Sec. 3. Chap. II.—Privilege and Protection of the Government. Sec. 4.)

3. For the purposes of this Act, —

- (a) a postal article shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the addressee or of its being returned to the sender or otherwise disposed of under Chapter VII :
- (b) the delivery of a postal article of any description to a postman or other person authorized to receive postal articles of that description for the post shall be deemed to be a delivery to a post office : and
- (c) the delivery of a postal article at the house or office of the addressee, or to the addressee or his servant or agent or other person considered to be authorized to receive the article according to the usual manner of delivering postal articles to the addressee, shall be deemed to be delivery to the addressee.

Meanings of  
“in course of  
transmission  
by post” and  
“delivery.”

## CHAPTER II.

### PRIVILEGE AND PROTECTION OF THE GOVERNMENT.

4. (1) Wherever within British India posts or postal communications are established by the Governor General in Council, the Governor General in Council shall have the exclusive privilege of conveying by post, from one place to another, all letters, except in the following cases, and shall also have the exclusive privilege of performing all the incidental services of receiving, collecting, sending, despatching and delivering all letters, except in the following cases, that is to say :—

Exclusive  
privilege of  
conveying  
letters re-  
served to the  
Government.

- (a) letters sent by a private friend in his way, journey or travel, to be delivered by him to the person to whom they are directed, without hire, reward or other profit or advantage for receiving, carrying or delivering them ;
- (b) letters solely concerning the affairs of the sender or receive thereof, sent by a messenger on purpose ; and
- (c) letters solely concerning goods or property, sent either by sea or by land to be delivered with the goods or property which the letters concern, without hire, reward or other profit or advantage for receiving, carrying or delivering them :

Provided that nothing in this section shall authorize any person to make a collection of letters excepted as aforesaid for the purpose of sending them otherwise than by post.

(Chap. II. — *Privilege and Protection of the Government.* Secs. 5-6. Chap.

III. — *Postage.* Sec. 7.)

(2) For the purposes of this section and section 5, the expression "letters" includes postcards.

Certain persons expressly forbidden to convey letters.

5. Wherever within British India posts or postal communications are established by the Governor General in Council, the following persons are expressly forbidden to collect, carry, tender or deliver letters, or to receive letters for the purpose of carrying or delivering them, although they obtain no hire, reward or other profit or advantage for so doing, that is to say :—

- (a) common carriers of passengers or goods, and their servants or agents, except as regards letters solely concerning goods in their carts or carriages; and
- (b) owners and masters of vessels sailing or passing on any river or canal in British India, or between any ports or places in British India, and their servants or agents, except as regards letters solely concerning goods on board, and except as regards postal articles received for conveyance under Chapter VIII.

Exemption from liability for loss, mis-delivery, delay or damage.

6. The Secretary of State for India in Council shall not incur any liability by reason of the loss, misdelivery or delay of, or damage to, any postal article in course of transmission by post, except in so far as such liability may in express terms be undertaken by the Governor General in Council as hereinafter provided; and no officer of the Post Office shall incur any liability by reason of any such loss, mis-delivery, delay or damage, unless he has caused the same fraudulently or by his wilful act or default.

## CHAPTER III.

### POSTAGE.

Power to fix rates of inland postage.

7. (1) The Governor General in Council may, by notification in the Gazette of India, fix the rates<sup>1</sup> of postage and other sums to be charged in respect of postal articles sent by the inland post under this Act, and may make rules as to the scale of weights, terms and conditions subject to which the rates so fixed shall be charged :

Provided that the highest rate of postage, when prepaid, shall not exceed the rate set forth for each class of postal articles in the first schedule.

(2) Unless and until such notification as aforesaid is issued, the rates set forth in the said schedule shall be the rates chargeable under this Act.

<sup>1</sup> For notification fixing rates of postage on inland letters, see Gazette of India, 1898, Pt. I, p. 960.

(3) The Governor General in Council may, by notification in the Gazette of India, declare what packets may be sent by the inland post as book, pattern and sample packets within the meaning of this Act.

8. The Governor General in Council may, by rule,—<sup>1</sup>

Power to make rules as to payment of postage and fees in certain cases.

- (a) require the prepayment of postage on inland postal articles or any class of inland postal articles, and prescribe the manner in which prepayment shall be made ;
- (b) prescribe the postage to be charged on inland postal articles when the postage is not prepaid or is insufficiently prepaid ;
- (c) provide for the redirection of postal articles and the transmission by post of articles so redirected, either free of charge or subject to such further charge as may be specified in the rules ; and
- (d) prescribe the fees to be charged for the “ express delivery ” of postal articles, in addition to, or instead of, any other postage chargeable thereon under this Act.

*Explanation.*—“ Express delivery ” means delivery by a special messenger or conveyance.

9. (1) The Governor General in Council may make rules<sup>1</sup> providing for the registration of newspapers for transmission by inland post as registered newspapers.

Power to make rules as to registered newspapers.

(2) For the purpose of such registration, every publication, consisting wholly or in great part of political or other news, or of articles relating thereto or to other current topics, with or without advertisements, shall be deemed a newspaper, subject to the following conditions, namely :—

- (a) that it is published in numbers at intervals of not more than thirty-one days ; and
- (b) that it has a *bond fide* list of subscribers.

(3) An extra or supplement to a newspaper, bearing the same date as the newspaper and transmitted therewith, shall be deemed to be part of the newspaper :

Provided that no such extra or supplement shall be so deemed unless it consists wholly or in great part of matter like that of the newspaper and has the title and date of publication of the newspaper printed at the top of each page.

*Explanation.*—Nothing in this section or in the rules thereunder shall be construed to render it compulsory to send newspapers by the inland post.

<sup>1</sup> For revised rates of postage on registered newspapers with effect from the 1st October, 1898, see Gazette of India, 1898, Pt. I, p. 856.

Power to  
declare rates  
of foreign  
postage.

10. (1) Where arrangements are in force with the United Kingdom, or with any British possession or foreign country, for the transmission by post of postal articles between British India and the United Kingdom or such possession or country, the Governor General in Council may, in conformity with the provisions of such arrangements, declare what postage rates and other sums shall be charged in respect of such postal articles, and may make rules as to the scale of weight, terms and conditions subject to which the rates so declared shall be charged.<sup>1</sup>

(2) Unless and until such declaration as aforesaid is made, the existing rates and regulations shall continue in force.

Liability for  
payment of  
postage.

11. (1) The addressee of a postal article on which postage or any other sum chargeable under this Act is due, shall be bound to pay the postage or sum so chargeable on his accepting delivery of the postal article, unless he forthwith returns it unopened :

Provided that, if any such postal article appears to the satisfaction of the Post Master General to have been maliciously sent for the purpose of annoying the addressee, he may remit the postage.

(2) If any postal article on which postage or any other sum chargeable under this Act is due, is refused or returned as aforesaid, or if the addressee is dead or cannot be found, then the sender shall be bound to pay the postage or sum due thereon under this Act.

Recovery of  
postage and  
other sums  
due in respect  
of postal arti-  
cles.

12. If any person refuses to pay any postage or other sum due from him under this Act in respect of any postal article, the sum so due may, on application made by an officer of the Post Office authorized in this behalf by the written order of the Post Master General, be recovered for the use of the Post Office from the person so refusing, as if it were a fine imposed under this Act, by any Magistrate having jurisdiction where that person may for the time being be resident ; and the Post Master General may further direct that any other postal article, not being on Her Majesty's service, addressed to that person shall be withheld from him until the sum so due is paid or recovered as aforesaid.

Customs-  
duty paid by  
the Post Office  
to be recover-

13. When a postal article, on which any duty of customs is payable, has been received by post from any place beyond the limits of British India, and the duty has been paid by the postal authorities at any customs-port or else-

<sup>1</sup> For notification extending Indian inland rates of postage to letters, etc., sent to Ceylon, see Gazette of India, 1898, Pt. I, p. 1170.

For notification prescribing rates of postage for letters from British India to the United Kingdom and to certain British possessions, see No. 4832-S. R., dated 4th November, 1898, and No. 5664, S. R., dated, 26th December 1898, Gazette of India, 1898, Pt. I, pp. 1086 and 1211.

(Chap. III.—Postage. Secs. 14-15. Chap. IV.—Postage Stamps.  
Sec. 16.)

where, the amount of the duty shall be recoverable as if it were postage due under this Act. able as postage.

14. In every proceeding for the recovery of any postage or other sum alleged to be due under this Act in respect of a postal article,— Post Office marks *prima facie* evidence of certain facts denoted.

(a) the production of the postal article, having thereon the official mark of the Post Office denoting that the article has been refused, or that the addressee is dead or cannot be found, shall be *prima facie* evidence of the fact so denoted, and

(b) the person from whom the postal article purports to have come, shall, until the contrary is proved, be deemed to be the sender thereof.

15. The official mark on a postal article denoting that any postage or other sum is due in respect thereof to the Post Office of British India or to the Post Office of the United Kingdom or of any British possession or foreign country, shall be *prima facie* evidence that the sum denoted as aforesaid is so due. Official mark to be evidence of amount of postage.

## CHAPTER IV.

### POSTAGE STAMPS.

16. (1) The Governor General in Council shall cause postage stamps to be provided of such kinds and denoting such values as he may think necessary for the purposes of this Act. Provision of postage stamps and power to make rules as to them.

(2) The Governor General in Council may make rules as to the supply, sale and use of postage stamps.

(3) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) fix the price at which postage stamps shall be sold ;
- (b) declare the classes of postal articles in respect of which postage stamps shall be used for the payment of postage or other sums chargeable under this Act ;
- (c) prescribe the conditions with regard to perforation, defacement and all other matters subject to which postage stamps may be accepted or refused in payment of postage or other sums ;
- (d) regulate the custody, supply and sale of postage stamps ;
- (e) declare the persons by whom and the terms and conditions subject to which postage stamps may be sold ; and

(Chap. IV.—Postage Stamps. Sec. 17. Chap. V.—Conditions of Transmission of Postal Articles. Secs. 18-20.)

(f) prescribe the duties and remuneration of persons selling postage stamps.

Postage stamps to be deemed to be stamps for the purpose of revenue.

17. Postage stamps provided under section 16 shall be deemed to be stamps issued by Government for the purpose of revenue within the meaning of the Indian Penal Code,<sup>1</sup> and, subject to the other provisions of this Act shall be used for the prepayment of postage or other sums chargeable under this Act in respect of postal articles, except where the Governor General in Council directs that prepayment shall be made in some other way. XLV of 1860.

## CHAPTER V.

### CONDITIONS OF TRANSMISSION OF POSTAL ARTICLES.

Redelivery to sender of postal article in course of transmission by post.

18. (1) The Governor General in Council may, by rule,<sup>2</sup> provide for the redelivery to the sender, without reference to the consent of the addressee and subject to such conditions (if any) as may be deemed fit, of any postal article in course of transmission by post.

(2) Save as provided by any rules that may be made under sub-section (1), the sender shall not be entitled to recall a postal article in course of transmission by post.

Transmission by post of anything injurious prohibited.

19. (1) Except as otherwise provided by rule and subject to such conditions as may be prescribed thereby, no person shall send by post any explosive, dangerous, filthy, noxious or deleterious substance, any sharp instrument not properly protected, or any living creature which is either noxious or likely to injure postal articles in course of transmission by post or any officer of the Post Office.

(2) No person shall send by post any article or thing which is likely to injure postal articles in course of transmission by post or any officer of the Post Office.

Transmission by post of anything indecent, etc., prohibited.

20. No person shall send by post —

(a) any indecent or obscene printing, painting, photograph, lithograph, engraving, book or card, or any other indecent or obscene article,  
or

(b) any postal article having thereon, or on the cover thereof, any words, marks or designs of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character.

<sup>1</sup> Printed, General Acts, Ed. 1898, Vol. I, Pt. p. 240.

<sup>2</sup> For such rules, see Notification No. 2832-S.R., dated 24th June 1898, Gazette of India 1898, Pt. I, p. 686.

*(Chap. V.—Conditions of Transmission of Postal Articles. Secs. 21-23.)*

21. (1) The Governor General in Council may make rules as to the transmission by post of postal articles.

Power to make rules as to transmission by post of postal articles.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) provide for the granting receipts for, and the granting and obtaining certificates of posting and delivery of, postal articles and the sums to be paid, in addition to any other postage, for such receipts and certificates; and

(b) regulate covers, form, dimensions, maximum weight and enclosures, and the use of postal articles, other than letters, for making communications.

(3) Postal articles shall be posted and delivered at such times and in such manner as the Director General may, by order, from time to time appoint.

22. (1) Where the despatch or delivery from a post office of letters would be delayed by the despatch or delivery therefrom at the same time of book, pattern or sample packets and parcels, or any of them, such packets or parcels, or any of them, may, subject to such rules<sup>1</sup> as the Governor General in Council may make in this behalf, be detained in the Post Office so long as may be necessary.

Power to postpone despatch or delivery of certain postal articles.

(2) Where separate parcel posts are established, parcels may be forwarded and conveyed by them, being detained, if necessary, in the Post Office for that purpose.

23. (1) Any postal article sent by post in contravention of any of the provisions of this Act may be detained and either returned to the sender or forwarded to destination, in each case charged with such additional postage (if any) as the Governor General in Council may, by rule, direct.

Power to deal with postal articles posted in contravention of Act.

(2) Any officer in charge of a post office or authorized by the Post Master General in this behalf may open or unfasten any newspaper or any book, pattern or sample packet, in course of transmission by post, which he suspects have been sent by post in contravention of section 21 or of any of the provisions of this Act relating to postage.

(3) Notwithstanding anything in sub-section (1)—

(a) any postal article sent by post in contravention of the provisions of section 19 may, under the authority of the Post Master General, if necessary, be opened and destroyed; and

(b) any postal article sent by post in contravention of the provisions of section 20 may, under the authority of the Post Master General, be destroyed.

<sup>1</sup> For rules as to detention and disposal of undelivered postal articles, see Notification . 2832-S.R., dated 24th June, 1898, see Gazette of India, 1898, Pt. I, p. 686.

Power to deal  
with postal  
articles  
containing  
goods con-  
traband or li-  
able to duty.

24. Where a postal article, suspected to contain any contraband goods or anything liable to duty, is received for delivery at a post office, the officer in charge of the post office shall send a notice in writing to the addressee inviting him to attend, either in person or by agent, within a specified time at the post office, and shall in the presence of the addressee or his agent, or if the addressee or his agent fails to attend as aforesaid then in his absence, open and examine the postal article :

Provided, first, that, if the Director General so directs in the case of any post office or class of post offices, the officer in charge of the post office shall call in two respectable persons as witnesses before he opens a postal article in the absence of the addressee or his agent :

Provided, secondly, that in all cases a postal article, after being opened under this section, shall be delivered to the addressee, unless it is required for the purpose of any further proceeding under this or any other law or enactment for the time being in force, and that the opening of the postal article and the circumstances connected therewith shall be immediately reported to the Post Master General :

Provided, thirdly, that nothing in this section shall prevent the detention of parcels, received by post from any place beyond the limits of British India, at the customs-port or other place at which they are received and the opening of parcels so received by the Customs-authorities for the purpose of levying any duty of customs.

Power to  
intercept  
notified  
goods during  
transmission  
by post.

25. Where a notification has been published under section 19 of the Sea Customs Act, 1878,<sup>1</sup> in respect of any goods of any specified description, any officer of the Post Office empowered in this behalf by the Governor General in Council may search, or cause search to be made, for any such goods in course of transmission by post, and shall deliver all such goods found to such officer as the Governor General in Council may appoint in this behalf, and such goods may be disposed of in such manner as the Governor General in Council may direct.

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Power to  
intercept  
postal articles  
for public  
good.

26. (1) On the occurrence of any public emergency, or in the interest of the public safety or tranquillity, the Governor General in Council, or a Local Government, or any officer specially authorized in this behalf by the Governor General in Council, may, by order in writing, direct that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained or shall be delivered to the Government or to an officer

<sup>1</sup> Printed, General Acts, Vol. III, Ed. 1878, p. 163.



(Chap. V.—*Conditions of Transmission of Postal Articles. Sec. 27. Chap. VI.—Registration, Insurance and Value-payable Post. Sec. 28.*)

thereof mentioned in the order, to be disposed of in such manner as the Governor General in Council may direct.

(2) If any doubt arises as to the existence of a public emergency, or as to whether any act done under sub-section (1) was in the interest of the public safety or tranquillity, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

27. (1) Where a postal article is received by post from any place beyond the limits of British India—

(a) bearing a fictitious postage stamp, that is to say, any facsimile or imitation or representation of a postage stamp, or

(b) purporting to be prepaid with any postage stamp which has been previously used to prepay any other postal article,

Power to deal with postal articles from abroad bearing fictitious or previously used stamps.

the officer in charge of the post office at which the postal article is received, shall send a notice to the addressee inviting him to attend, either in person or by agent, within a specified time at the post office to receive delivery of the postal article.

(2) If the addressee or his agent attends at the post office within the time specified in the notice and consents to make known to the officer in charge of the post office the name and address of the sender of the postal article and to deliver to the officer aforesaid the portion of the postal article which bears the address and the fictitious or previously used postage stamp, or, if the postal article is inseparable from the stamp, the entire postal article, the postal article shall be delivered to the addressee or his agent.

(3) If the addressee or his agent fails to attend at the post office within the time specified in the notice, or, having attended within that time, refuses to make known the name and address of the sender or to redeliver the postal article or portion thereof as required by sub-section (2), the postal article shall not be delivered to him, but shall be disposed of in such manner as the Governor General in Council may direct.

*Explanation.*—For the purposes of this section, the expression “postage stamp” includes any postage stamp for denoting any rate or duty of postage payable in any part of Her Majesty’s dominions or of any Native State or foreign country.

## CHAPTER VI.

### REGISTRATION, INSURANCE AND VALUE-PAYABLE POST.

28. The sender of a postal article may, subject to the other provisions of Registration—

(Chap. VI.—Registration, Insurance and Value-payable Post. Secs. 29-31.)

of postal articles.

this Act, have the article registered at the post office at which it is posted, and require a receipt therefor; and the Governor General in Council may, by notification in the Gazette of India, direct that, in addition to any postage chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the registration of postal articles.

Power to make rules as to registration.

29. (1) The Governor General in Council may make rules as to the registration of postal articles.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) declare in what cases registration shall be required;
- (b) prescribe the manner in which the fees for registration shall be paid; and
- (c) direct that twice the fee for registration shall be levied on the delivery of a postal article required to be registered on which the fee for registration has not been prepaid.

(3) Postal articles made over to the Post Office for the purpose of being registered, shall be delivered, when registered, at such times and in such manner as the Director General may, by order, from time to time appoint.

Insurance of postal articles.

30. The Governor General in Council may, by notification in the Gazette of India, direct—

- (a) that any postal article may, subject to the other provisions of this Act, be insured at the post office at which it is posted, against the risk of loss or damage in course of transmission by post, and that a receipt therefor shall be granted to the person posting it; and
- (b) that, in addition to any postage and fees for registration chargeable under this Act, such further fee as may be fixed by the notification shall be paid on account of the insurance of postal articles.

Power to require insurance of postal articles.

31. The Governor General in Council may, by notification in the Gazette of India, declare in what cases insurance shall be required, and direct that any postal article containing anything required to be insured, which has been posted without being insured, shall be returned to the sender or shall be delivered to the addressee, subject to the payment of such special fee as may be fixed by the notification:

Provided that the levy of such special fee as aforesaid shall not impose any liability upon the Secretary of State for India in Council in respect of the postal article.

(Chap. VI.—Registration, Insurance and Value-payable Post. Secs. 32-35.)

32. (1) The Governor General in Council may make rules<sup>1</sup> as to the insurance of postal articles.

Power to make rules as to insurance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) declare what classes of postal articles may be insured under section 30 ;

(b) fix the limit of the amount for which postal articles may be insured ; and

(c) prescribe the manner in which the fees for insurance shall be paid.

(3) Postal articles made over to the Post Office for the purpose of being insured, shall be delivered, when insured, at such places and times and in such manner as the Director General may, by order, from time to time appoint.

33. Subject to such conditions and restrictions as the Governor General in Council may, by rule, prescribe, the Secretary of State for India in Council shall be liable to pay compensation, not exceeding the amount for which a postal article has been insured, to the sender thereof for the loss of the postal article or its contents, or for any damage caused to it in course of transmission by post :

Liability in respect of postal articles insured.

Provided that the compensation so payable shall in no case exceed the value of the article lost or the amount of the damage caused.

34. The Governor General in Council may, by notification in the Gazette of India, direct that, subject to the other provisions of this Act and to the payment of fees at such rates as may be fixed by the notification, a sum of money specified in writing at the time of posting by the sender of a postal article shall be recoverable on the delivery thereof from the addressee, and that the sum, so recovered, shall be paid to the sender :

Transmission by post of value-payable postal articles.

Provided that the Secretary of State for India in Council shall not incur any liability in respect of the sum specified for recovery, unless and until that sum has been received from the addressee.

*Explanation.*—Postal articles sent in accordance with the provisions of this section may be described as “value-payable” postal articles.

35. (1) The Governor General in Council may make rules<sup>1</sup> as to the transmission by post of value-payable postal articles.

Power to make rules as to value-payable postal articles.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) declare what classes of postal articles may be sent as value-payable postal articles ;

<sup>1</sup> For notification prescribing rules as to insurance of postal articles, and value-payable postal articles, see No. 5333-S. R., dated 5th December, 1898, Gazette of India, 1898, Pt. I, p. 1171.

(Chap. VI.—Registration, Insurance and Value-payable Post. Sec. 36.

Chap. VII.—Undelivered Postal Articles. Sec. 37.)

- (b) direct that no postal article shall be so sent unless the sender declares that it is sent in execution of a *bonâ fide* order received by him ;
- (c) limit the value to be recovered on the delivery of any value-payable postal article ; and
- (d) prescribe the form of declaration to be made by the senders of value-payable postal articles, and the time and manner of the payment of fees.

(3) Postal articles shall be made over to the Post Office for the purpose of being sent as “value-payable” and shall be delivered, when so sent, at such times and in such manner as the Director General may, by order, from time to time appoint.

Power to  
give effect to  
arrange-  
ments with  
other  
countries.

36. (1) Where arrangements are in force with the United Kingdom, or with any British possession, Native State or foreign country, for the transmission by post of registered, insured or value-payable postal articles between British India and the United Kingdom or such possession, State or country, the Governor General in Council may make rules to give effect to such arrangements.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the form of declaration to be made by the senders of such postal articles as aforesaid ; and
- (c) the fees to be charged in respect thereof.

## CHAPTER VII.

### UNDELIVERED POSTAL ARTICLES.

Power to  
make rules as  
to disposal of  
undelivered  
postal  
articles.

37. (1) The Governor General in Council may make rules as to the disposal<sup>1</sup> of postal articles which for any reason cannot be delivered (hereinafter referred to as “undelivered postal articles”).

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe the period during which undelivered postal articles at a post office shall remain in that office ; and
- (b) provide for the publication of lists of undelivered postal articles, or of any class of undelivered postal articles.

<sup>1</sup> For rules as to disposal of undelivered postal articles, see Notification No. 2832-S. R., dated 24th June, 1898, Gazette of India, 1898, Pt. I. p. 686.

(Chap. VII.—Undelivered Postal Articles. Secs. 38-39. Chap. VIII.—Ship Letters. Sec. 40.)

(3) Every undelivered postal article, after being detained at a post office for the period prescribed by rule under the foregoing provisions of this section, shall be either forwarded, free of further charge, to the post office at which it was posted, for return to the sender, or sent to the office of the Post Master General.

38. (1) Every postal article received at the office of the Post Master General under sub-section (3) of section 37 shall be dealt with as follows:—

Disposal of undelivered postal articles at office of Post Master General

- (a) if practicable, it shall be redirected and forwarded by post to the addressee; or,
- (b) if it cannot be redirected and forwarded as aforesaid, it shall be opened by some officer, appointed by the Post Master General in this behalf and bound to secrecy, in order to ascertain the name and address of the sender.

(2) If the name and address of the sender are so ascertained, it shall be returned by post to the sender, free of further charge or subject to such further charge as the Governor General in Council may, by rule, direct.

39. Undelivered postal articles which cannot be disposed of under the foregoing provisions, shall be detained in the office of the Post Master General for such further period (if any), and shall be dealt with in such manner, as the Governor General in Council may, by rule, direct :

Final disposal of undelivered postal articles.

Provided that—

- (a) letters and postcards shall be destroyed ;
- (b) money or saleable property, not being of a perishable nature, found in any undelivered postal article, shall be detained for a period of one year in the office of the Post Master General, and, if on the expiration of that period no person has established his right thereto, shall, if money, be credited to the Post Office, and, if saleable property, be sold, the sale-proceeds being credited to the Post Office.

## CHAPTER VIII.

### SHIP LETTERS.

40. The master of a ship, not being a mail ship, about to depart from any port in British India to any port within, or any port or place beyond, British India, shall receive on board any mail bag tendered to him by any officer of the Post Office for conveyance, granting a receipt therefor in such form as the

Duty of master of ship, departing from any port in British India

and not being a mail ship, to convey mail bags. Duty of master of ship arriving at any port in British India in respect of postal articles and mail bags on board.

Governor General in Council may, by rule, prescribe, and shall, without delay deliver the same at the port or place of destination.

41. (1) The master of a ship arriving at any port in British India shall without delay, cause every postal article or mail bag on board which is directed to that port and is within the exclusive privilege conferred on the Governor General in Council by section 4, to be delivered either at the post office at that port or to some officer of the Post Office authorized in this behalf by the Post Master General.

(2) If there is on board any postal article or mail bag which is directed to any other place within British India and is within the exclusive privilege aforesaid, the master shall, without delay, report the fact to the officer in charge of the post office at the port of arrival and act according to the directions he may receive from such officer, and the receipt of such officer shall discharge him from all further responsibility in respect of the postal article or mail bag.

Allowance of gratuities for conveyance of postal articles by ships other than mail ships.

42. The Governor General in Council may, by notification in the Gazette of India, declare what gratuities<sup>1</sup> shall be allowed to masters of ships, not being mail ships, in respect of postal articles received by them for conveyance on behalf of the Post Office; and the master of a ship, not being a mail ship, about to leave any port in British India as aforesaid shall, if he receives on board a mail bag for conveyance, be entitled to demand and obtain immediately the amount of the gratuity payable under this section in respect of the mail bag and its contents.

## CHAPTER IX.

### MONEY ORDERS.

Power to maintain money order system and to make rules as to remittances there-by.

43. (1) The Governor General in Council may provide for the remitting of small sums of money through the Post Office by means of money orders, and may make rules<sup>2</sup> as to such money orders.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the limit of amount for which money orders may be issued;
- (b) the period during which money orders shall remain current; and
- (c) the rates of commission or the fees to be charged on money orders or in respect thereof.

Power for remitter to recall money order or alter

44. (1) Subject to such conditions as the Governor General in Council may, by rules made under section 43, prescribe in respect of the levy of additional rates of commission or fees or any other matters, a person remitting

<sup>1</sup> For such notification see No. 375-S.R., dated 24th January 1899, Gazette of India, 1899, Pt. I, p. 41.

<sup>2</sup> For rules as regards postal money orders, see Notification No. 2832-S.R., dated 24th June 1898, Gazette of India 1898, Pt. I, p. 686.

money through the Post Office by means of a money order may require that the amount of the order, if not paid to the payee, be repaid to him, or be paid to such person other than the original payee as he may direct.

name of  
payee.

(2) If neither the payee nor the remitter of a money order can be found, and if within the period of one year from the date of the issue of the order no claim is made by such payee or remitter, the amount of such order shall not be claimable from the Government.

45. The Governor General in Council may authorize the issue, in such form as may be suitable, of money orders, to be called postal orders or by such other designation as may be deemed appropriate, for certain fixed amounts, and may make rules as to the rates of commission to be charged thereon and the manner in which, and conditions subject to which, they may be issued, paid and cancelled :

Power to  
provide for  
the issue of  
postal orders.

Provided that no such order shall be issued for an amount in excess of ten rupees.

46. (1) Where arrangements are in force with the United Kingdom, or with any British possession, Native State or foreign country, for the issue and payment through the Post Office of money orders between British India and the United Kingdom or such possession, State or country, the Governor General in Council may make rules to give effect to such arrangements.<sup>1</sup>

Power to give  
effect to  
arrangement  
with other  
countries.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the manner in which, and the conditions subject to which, such orders may be issued and paid in British India ; and
- (b) the rates of commission to be charged thereon.

47. If any person, without reasonable excuse the burden of proving which shall lie on him, neglects or refuses to refund—

Recovery of  
money order  
paid to the  
wrong  
person.

- (a) any amount paid to him in respect of a money order by an officer of the Post Office in excess of what ought to have been paid to him in respect thereof, or
- (b) the amount of a money order paid by an officer of the Post Office to him instead of to some other person to whom it ought to have been paid,

such amount shall be recoverable by an officer of the Post Office authorized by the Post Master General in this behalf from the person so neglecting or refusing as if it were an arrear of land-revenue due from him.<sup>2</sup>

<sup>1</sup> For rules giving effect to arrangements in force for the issue and payment of Foreign money orders, see Notification No. 2988-S. R., dated 6th July, 1898, Gazette of India, 1898, Pt. I, p. 728.

<sup>2</sup> See the Revenue Recovery Act, 1890 (I of 1890). Printed, General Acts, Ed. 1898, Vol. V, p. 357.

(Chap. IX.—*Money Orders.* Sec. 48. Chap. X.—*Penalties and Procedure.* Secs. 49-50.)

Exemption  
from liability  
in respect of  
money orders.

48. No suit or other legal proceeding shall be instituted against the Secretary of State for India in Council or any officer of the Post Office in respect of—

- (a) anything done under any rules made by the Governor General in Council under this Chapter ; or
- (b) the wrong payment of a money order caused by incorrect or incomplete information given by the remitter as to the name and address of the payee, provided that, as regards incomplete information, there was reasonable justification for accepting the information as a sufficient description for the purpose of identifying the payee ; or
- (c) the payment of any money order being refused or delayed by, or on account of, any accidental neglect, omission or mistake, by, or on the part of, an officer of the Post Office, or for any other cause whatsoever, other than the fraud or wilful act or default of such officer ; or
- (d) any wrong payment of a money order after the expiration of one year from the date of the issue of the order.

## CHAPTER X.

### PENALTIES AND PROCEDURE.

#### *Offences by Officers of the Post Office.*

Penalty for  
misconduct  
of person  
employed to  
carry or  
deliver mail  
bags or postal  
articles.

49. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post,—

- (a) is in a state of intoxication while so employed, or
- (b) is guilty of carelessness or other misconduct, whereby the safety of any such mail bag or postal article as aforesaid is endangered, or
- (c) loiters or makes delay in the conveyance or delivery of any such mail bag or postal article as aforesaid, or
- (d) does not use due care and diligence safely to convey or deliver any such mail bag or postal article as aforesaid,

shall be punishable with fine which may extend to fifty rupees.

Penalty for  
voluntary  
withdrawal  
from duty,  
without per-  
mission or

50. Whoever, being employed to carry or deliver any mail bag or any postal article in course of transmission by post, voluntarily withdraws from the duties of his office without permission or without having given one month's previous notice in writing, shall be punishable with imprisonment which may



extend to one month, or with fine which may extend to fifty rupees, or with both.

notice of person employed to carry or deliver mail bags or postal articles.

51. Whoever, being employed to carry or deliver any postal article in course of transmission by post and required while so employed to keep any register, makes, or causes or suffers to be made, any false entry in the register with intent to induce the belief that he has visited a place, or delivered a postal article, which he has not visited or delivered, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for making false entry in register kept by person employed to carry or deliver postal articles.

52. Whoever, being an officer of the Post Office, commits theft in respect of, or dishonestly misappropriates, or, for any purpose whatsoever, secretes, destroys or throws away, any postal article in course of transmission by post or anything contained therein, shall be punishable with imprisonment for a term which may extend to seven years, and shall also be punishable with fine.

Penalty for theft, dishonest misappropriation, secretion, destruction, or throwing away, of postal articles.

53. Whoever, being an officer of the Post Office, contrary to his duty, opens, or causes or suffers to be opened, any postal article in course of transmission by post, or wilfully detains or delays or causes or suffers to be detained or delayed, any such postal article, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Penalty for opening, detaining or delaying postal articles.

Provided that nothing in this section shall extend to the opening, detaining or delaying of any postal article under the authority of this Act or in obedience to the order in writing of the Governor General in Council or the direction of a competent Court.

54. Whoever, being an officer of the Post Office,—

- (a) fraudulently puts any wrong official mark on a postal article, or
- (b) fraudulently alters, removes or causes to disappear any official mark which is on a postal article, or,
- (c) being entrusted with the delivery of any postal article, knowingly demands or receives any sum of money in respect of the postage thereof which is not chargeable under this Act,

Penalty for fraud in connection with official marks and for receipt of excess postage.

shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

55. Whoever, being an officer of the Post Office entrusted with the preparing or keeping of any document, fraudulently prepares the document incorrectly, or alters or secretes or destroys the document, shall be punishable

Penalty for fraudulently preparing, altering,

## (Chap. X.—Penalties and Procedure. Secs. 56-59.)

secreting or  
destroying  
Post Office  
documents.  
Penalty for  
fraudulently  
sending un-  
paid postal  
articles.

with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

56. Whoever, being an officer of the Post Office, sends by post, or puts into any mail bag, any postal article upon which postage has not been paid or charged in the manner prescribed by this Act, intending thereby to defraud the Government of the postage on such postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

Punishment  
of offences  
committed in  
India outside  
British India.

57. (1) Whoever, being an officer of the Post Office employed in any place in India beyond the limits of British India in which posts are established by the Governor General in Council, or being appointed to sell postage stamps in any such place, commits therein an offence punishable under this Act, shall be punishable either in the place where the offence was committed by any Court or officer duly empowered by the Governor General in Council to take cognizance of offences committed in that place, or in any part of British India by any Court of competent jurisdiction as if the offence had been committed in that part.

(2) The provisions of section 188 of the Code of Criminal Procedure, X of 1898, 1898,<sup>1</sup> shall not apply to any offence referred to in this section.

*Other Offences.*

Penalty for  
contravention  
of section 4.

58. (1) Whoever—

- (a) conveys, otherwise than by post, a letter within the exclusive privilege conferred on the Governor General in Council by section 4, or
- (b) performs any service incidental to conveying, otherwise than by post, any letter within the exclusive privilege aforesaid, or
- (c) sends, or tenders or delivers in order to be sent, otherwise than by post, a letter within the exclusive privilege aforesaid, or
- (d) makes a collection of letters excepted from the exclusive privilege aforesaid for the purpose of sending them otherwise than by post,

shall be punishable with fine which may extend to fifty rupees for every such letter.

(2) Whoever, having already been convicted of an offence under this section, is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

Penalty for  
contravention  
of section 5.

59. (1) Whoever, in contravention of the provisions of section 5, carries, receives, tenders or delivers letters, or collects letters, shall be punishable with

<sup>1</sup> Printed, *supra*, p. 380.

fine which may extend to fifty rupees for every such letter.

(2) Whoever, having already been convicted of an offence under this section is again convicted thereunder, shall, on every such subsequent conviction, be punishable with fine which may extend to five hundred rupees.

60. Whoever, being appointed to sell postage stamps,—

Penalty for breach of rules under section 16.

(a) takes from any purchaser for any postage stamp or quantity of postage stamps a price higher than that fixed by any rule made under section 16, sub-section (3), clause (a), shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both ; or

(b) commits a breach of any other rule made under section 16, shall be punishable with fine which may extend to two hundred rupees.

61. (1) Whoever, in contravention of the provisions of section 19 or section 20, sends or tenders or makes over in order to be sent by post any postal article or anything, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for contravention of section 19 or 20.

(2) The detention in the Post Office of any postal article on the ground of its having been sent in contravention of the provisions of section 19 or section 20, shall not exempt the sender from any proceedings which might have been taken if the postal article had been delivered in due course of post.

62. Whoever places in or against any letter-box provided by the Post Office for the reception of postal articles any fire, match or light, any explosive, dangerous, filthy, noxious or deleterious substance, or any fluid, or commits a nuisance in or against any such letter-box or does anything likely to injure any such letter-box or its appurtenances or contents, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for defiling or injuring post office letter-boxes.

63. Whoever, without due authority, affixes any placard, advertisement, notice, list, document, board or other thing in or on, or paints, tars or in any way disfigures any post office or any letter-box provided by the Post Office for the reception of postal articles, shall be punishable with fine which may extend to fifty rupees.

Penalty for affixing without authority thing to, or painting, tarring or disfiguring, post office or post office letter-box.

64. Whoever, being required by this Act to make a declaration in respect of any postal article to be sent by post or the contents or value thereof, makes in his declaration any statement which he knows, or has reason to believe, to be false, or does not believe to be true, shall be punishable with fine which

Penalty for making false declaration.

*(Chap. X.—Penalties and Procedure. Secs. 65-68.)*

may extend to two hundred rupees, and, if the false declaration is made for the purpose of defrauding the Government, with fine which may extend to five hundred rupees.

Penalty for master of ship failing to comply with the provisions of section 40 or 41.

65. Whoever, being the master of a ship,—

- (a) fails to comply with the provisions of section 40, or,
- (b) without reasonable excuse, the burden of proving which shall lie on him, fails to deliver any postal article or mail bag or to comply with the directions of the officer in charge of the post office at a port of arrival, as required by section 41,

shall be punishable with fine which may extend to one thousand rupees.

Penalty for detention of letters on board vessel arriving in port.

66. (1) Whoever, being either the master of a ship arriving at any port in British India or any one on board, knowingly has in his baggage or in his possession or custody, after the postal articles on board or any of them have been sent to the post office at the port of arrival, any postal article within the exclusive privilege conferred on the Governor General in Council by section 4, shall be punishable with fine which may extend to fifty rupees for every such postal article as aforesaid.

(2) Whoever, being such master or other person as aforesaid, detains any such postal article as aforesaid after demand made for it by an officer of the Post Office, shall be punishable with fine which may extend to one hundred rupees for every such postal article.

Penalty for detaining mails or opening mail bag.

67. Whoever, except under the authority of this Act or in obedience to the order in writing of the Governor General in Council or the direction of a competent Court, detains the mails or any postal article in course of transmission by post, or on any pretence opens a mail bag in course of transmission by post, shall be punishable with fine which may extend to two hundred rupees :

Provided that nothing in this section shall prevent the detention of an officer of the Post Office carrying the mails or any postal article in course of transmission by post, on a charge of having committed an offence declared to be cognizable by the Code of Criminal Procedure, 1898,<sup>1</sup> or any other law for **V of 1898.** the time being in force.

Penalty for retaining postal articles wrongly delivered or mail bags.

68. Whoever fraudulently retains, or wilfully secretes or makes away with, or keeps or detains, or, when required by an officer of the Post Office, neglects or refuses to deliver up, any postal article in course of transmission by post which ought to have been delivered to any other person, or a mail bag containing a postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine.

<sup>1</sup> Printed, *supra*, p. 380.

*Chap. X.—Penalties and Procedure. Secs. 69-72. Chap. XI.—Supplemental. Secs. 73-74.)*

69. Whoever, not being an officer of the Post Office, wilfully and maliciously, with intent to injure any person, either opens or causes to be opened any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both :

Penalty for unlawfully diverting letters.

Provided that nothing in this section shall apply to a person who does any act to which the section applies, if he is a parent, or in the position of a parent or guardian, of the addressee, and the addressee is a minor or a ward.

#### *General.*

70. Whoever abets the commission of any offence punishable under this Act or attempts to commit any offence so punishable, shall be punishable with the punishment provided for that offence.

Penalty for abetting, or attempting to commit, offences under Act. Property in cases of offences to be laid in the Post Office.

71. In every prosecution for an offence in respect of a mail bag or of any postal article sent by post, it shall be sufficient, for the purpose of the charge, to describe the mail bag or postal article as being the property of the Post Office, and it shall not be necessary to prove that the mail bag or postal article was of any value.

72. No Court shall take cognizance of an offence punishable under any of the provisions of sections 51, 53, 54, clauses (a) and (b), 55, 56, 58, 59, 61, 64, 65, 66 and 67 of this Act, unless upon complaint made by order of, or under authority from, the Director General or a Post Master General.

Authority for prosecutions under certain sections of Act.

## CHAPTER XI.

### SUPPLEMENTAL.

73. (1) The Governor General in Council may make rules for the management of any zamindari or other district post.

Zamindari and other district posts.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may declare what portions of this Act shall be applicable to zamindari and other district posts and to the persons employed in connection therewith.

74. (1) In addition to the powers hereinbefore conferred, the Governor General in Council may make rules to carry out any of the purposes and objects of this Act.

General power to make rules and provisions as to rules under Act.

(Chap. XI.—Supplemental. Secs. 75-77. The First Schedule.—Inland Postage Rates.)

(2) In making any rule under this Act, the Governor General in Council may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

(3) All rules made by the Governor General in Council under this Act shall be published in the Gazette of India and, on such publication, shall have effect as if enacted by this Act.

Delegation of powers, other than rule-making powers, to Director General.

75. The Governor General in Council may, by notification in the Gazette of India, authorize, either absolutely or subject to conditions, the Director General to exercise any of the powers conferred upon the Governor General in Council by this Act, other than a power to make rules.

Repeal.

76. The enactments mentioned in the second schedule are repealed to the extent specified in the fourth column thereof.

Saving.

77. Nothing in this Act shall derogate from or affect the provisions of the East India Company Act, 1780,<sup>1</sup> or any enactment amending or extending the same. 21 Geo. 3  
c. 70.

## THE FIRST SCHEDULE.

### INLAND POSTAGE RATES.

(See section 7.)

#### LETTERS.

For a weight not exceeding half a tola . . . . .	Half an anna.
For a weight not exceeding one tola . . . . .	One anna.
For every tola or fraction thereof exceeding one tola . . . . .	One anna.

#### POSTCARDS.

Single . . . . .	Quarter of an anna.
Reply . . . . .	Half an anna.

#### BOOK, PATTERN AND SAMPLE PACKETS.

For every ten tolas or fraction thereof . . . . .	Half an anna.
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#### NEWSPAPERS.

For a weight not exceeding three tolas . . . . .	Quarter of an anna.
--	---------------------

#### REGISTERED NEWSPAPERS.

For a weight not exceeding twenty tolas . . . . .	Half an anna.
For every twenty tolas or fraction thereof exceeding twenty tolas . . . . .	Half an anna.

<sup>1</sup> Printed, Collection of Statutes relating to India, Vol. I, Ed. 1881, p. 70.

(The Second Schedule. Enactments Repealed.)

## PARCELS.

For a weight not exceeding twenty tolas . . . . .	Two annas.
For a weight not exceeding forty tolas . . . . .	Four annas.
For every additional forty tolas or fraction thereof exceeding forty tolas . . . . .	Four annas.

## THE SECOND SCHEDULE.

## ENACTMENTS REPEALED.

(See section 76.)

Year.	No.	Short title.	Extent of repeal.
1866	XIV	The Indian Post Office Act, 1866.	The whole.
1882	III	The Seditious Publications Act, 1882.	So much as is unrepealed.
1895	III	The Indian Criminal Law Amendment Act, 1895.	Section 7.
1896	XVI	The Indian Post Office Act (1866) Amendment Act, 1896.	The whole.
<sup>1</sup> 1897	XIV	The Indian Short Titles Act, 1897.	So much as relates to Act XVI of 1896.

ACT No. IX OF 1898.<sup>2</sup>

[12th August, 1898.]

An Act to make better provision for the regulation of the importation of live-stock.

WHEREAS it is expedient to make better provision for the regulation of the

<sup>1</sup> Printed, *supra*, p. 331.<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 282; and for Proceedings in Council, see *ibid*, Pt. VI, pp. 362 and 364.

The Act has been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act, 1898 (XIII of 1898), see the First Schedule, printed, Burma Code, Ed. 1899,

(Secs. 1-4.)

importation of live-stock which is liable to be affected by infectious or contagious disorders; It is hereby enacted as follows:—

Short title,  
local extent  
and com-  
mencement.

1. (1) This Act may be called the Live-stock Importation Act, 1898.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) the expression “infectious or contagious disorders” includes tick-pest, anthrax, glanders, farcy, scabies and any other disease or disorder which may be specified by the Governor General in Council by notification in the Gazette of India; and

(b) “live-stock” includes horses, kine, camels, sheep and any other animal which may be specified by the Governor General in Council by notification in the Gazette of India.

Power to  
regulate im-  
portation of  
live-stock.

3. (1) The Governor General in Council may, by notification in the Gazette of India, regulate, restrict or prohibit, in such manner and to such extent as he may think fit, the bringing or taking, by sea or land, into British India or any specified place therein, of any live-stock which may be liable to be affected by infectious or contagious disorders, and of any fodder, dung, stable-litter, clothing, harness or fittings appertaining to live-stock or that may have been in contact therewith.

(2) A notification under sub-section (1) shall operate as if it had been issued under section 19 of the Sea Customs Act, 1878,<sup>1</sup> and the officers of cus- VIII of 1878  
toms at every port shall have the same powers in respect of any live-stock or thing, with regard to the importation of which such a notification has been issued, and the vessel containing the same, as they have for the time being in respect of any article the importation of which is regulated, restricted or prohibited by the law relating to sea customs and the vessel containing the same; and the enactments for the time being in force relating to sea customs or any such article or vessel shall apply accordingly.

Power for  
Local Gov-  
ernment to  
make rules.

4. (1) The Local Government may, subject to the control of the Governor General in Council, make rules for the detention, inspection, disinfection or destruction of imported live-stock, and of fodder, dung, stable-litter, clothing, harness or fittings appertaining to imported live-stock or that may have been in contact therewith, and for regulating the powers and duties of the officers whom it may appoint in this behalf.

(2) In making any rule under this section the Local Government may

<sup>1</sup> Printed, General Acts, Vol. III, Ed. 1898, p. 168.



direct that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

5. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

Protection to persons acting under Act.

### ACT No. X OF 1898.<sup>1</sup>

[2nd September, 1898.]

## An Act to make provision for certain matters connected with Insolvency.

WHEREAS doubts have arisen as to the extent of the power to make rules conferred by sections 15 and 76 of the Indian Insolvency Act, 1848,<sup>2</sup> and whereas it is expedient to remove those doubts and to confirm certain rules which were made by the High Court of Judicature at Bombay on the thirty-first day of July, 1878 ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Insolvency Rules Act, 1898 ; and

Short title and commencement.

(2) It shall come into force at once.

2. The power to make rules conferred by sections 15 and 76 of the Indian Insolvency Act, 1848,<sup>2</sup> shall be deemed to include, and to have included, a power to make rules for the audit of the accounts of the official assignee, and for paying for the costs of such audit and for paying the reasonable costs, charges and allowances of the official assignee, out of the funds in the hands of the official assignee.

Extent of power to make rules under the Indian Insolvency Act, 1848.

3. The rules made, in exercise of the aforesaid power, by the High Court of Judicature at Bombay on the thirty-first day of July, 1878, are hereby confirmed.

Confirmation of rules made on the 31st July, 1878, by the Bombay High Court. Official assignee's allowance for pension.

4. The Chief Justice of the said Court may, with the previous sanction of the Governor General in Council, pay to the present official assignee, out of the interest on the Unclaimed Dividend Account, such sum by way of pension on retirement, or bonus in lieu thereof, as may be reasonable and proper having regard to the length, nature and conditions of his service.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1898, Pt. V, p. 275, for Proceedings in Council, see *ibid*, 1898, Pt. VI, pp. 295 and 366.

<sup>2</sup> Printed, Collection of Statutes relating to India, Vol. I, Ed. 1881, p. 323.



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# APPENDIX I.

## LIST OF ACTS OF PARLIAMENT AFFECTED BY INDIAN LEGISLATION.\*

Regnal year and number.	Part affected.	How affected.
Hen. 3, c. 1 . . .	The whole . . .	Rep. <i>Distress Act, 1875 (I of 1875), s. 2 and Sch. II.</i>
„ „, c. 3 . . .	Ditto . . .	<i>Ditto.</i>
„ „, c. 4 . . .	Ditto . . .	<i>Ditto.</i>
„ „, c. 15 . . .	Ditto . . .	<i>Ditto.</i>
„ „, c. 21 . . .	Ditto . . .	<i>Ditto.</i>
Ed. 1, c. 2 . . .	Ditto . . .	<i>Ditto.</i>
„ „, c. 37 . . .	Ditto . . .	<i>Ditto.</i>
s. Estatuz del Eschekere, etween c. 13 and c. 14 of 7 Ed. 2.	Ditto . . .	<i>Ditto.</i>
Hen. 8, c. 10 . . .	Ditto . . .	Rep. <i>Transfer of Property Act, 1882 (IV of 1882), s. 2 and sch.</i>
„ „, c. 1 . . .	Ditto . . .	Rep. <i>Wills Act, 1833 (XXV of 1833), s. 2.</i>
185 „ „, c. 5 . . .	Ditto . . .	<i>Ditto.</i>
2 Phil. & M., c. 12 . . .	Ditto . . .	Rep. <i>Distress Act, 1875 (I of 1875) s. 2 and Sch. II.</i>
Eliz., c. 5 . . .	Ditto . . .	Rep. <i>Transfer of Property Act, 1882 (IV of 1882), s. 2 and sch.</i>
„ c. 4 . . .	Ditto . . .	<i>Ditto.</i>
s. 1, c. 5† . . .	Ditto . . .	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
„ „, c. 12 . . .	Ditto . . .	<i>Ditto.</i>
„ „, c. 16 . . .	Ditto . . .	Rep. <i>Indian Limitation Act, 1871 (IX of 1871), s. 2 and Sch. I.</i>
h. 2, c. 7 . . .	Ditto . . .	Rep. <i>Distress Act, 1875 (I of 1875), s. 2 and Sch. II.</i>

These repeals, extensions and modifications are, of course, subject to the limitations imposed on the powers of the Indian Legislature.

Reprinted in the last edition of the Statutes Revised as 7 [ & 8 ] Jas.

Regnal year and number.	Part affected.	How affected.
29 Ch. 2, c. 3 . . .	So much as related to devises or bequests of land, etc.	Rep. Wills Act, 1838 (XXV of 1838), s. 2.
	Ss. 1 to 4, 17 . . .	Rep. Indian Contract Act, 1872 (IX of 1872), s. 1 and sch.
	Ss. 7 to 11 . . .	Rep. Indian Trusts Act, 1882 (II of 1882), s. 2 and sch.
	Ss. 13 to 17, 22 to 24	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
29 Ch. 2, c. 7 . . .	The whole . . .	Rep. <i>Code of Civil Procedure (Act X of 1877), s. 3 and Sch. I.</i>
2 Wm. & M., c. 5 . . .	Ditto . . .	Rep. <i>Distress Act, 1875 (I of 1875) s. 2 and Sch. II.</i>
4 " " c. 16 . . .	Ditto . . .	Rep. Transfer of Property Act, 1882 (IV of 1882), s. 2 and sch.
8 & 9 Wm 3, c. 11 . . .	Ditto . . .	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and Sch.</i>
9 " " c. 17 . . .	Ditto . . .	Rep. Negotiable Instruments Act, 1881 (XXVI of 1881), s. 2 and sch.
3 & 4 Anne, c. 8 . . .	Ditto . . .	Ditto.
4 " c. 16 . . .	Ss. 17 to 19 . . .	Rep. <i>Indian Limitation Act, 1871 (IX of 1871), s. 2 and Sch. I.</i>
4 & 5 " c. 3 . . .	So much as related to witnesses to nuncupative wills.	Rep. Wills Act, 1838 (XXV of 1838).
14 Geo. 2, c. 20 . . .	So much as related to estates <i>pur autre vie</i> .	Ditto.
24 " " c. 44 . . .	The whole . . .	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
25 " " c. 6 . . .	Ditto . . .	Rep. Wills Act, 1838 (XXV of 1838).
13 Geo. 3, c. 63 . . .	Ss. 16, 19, 20, 27 to 29, 31, 33, 36.	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	S. 18 . . .	Rep. <i>Privy Council Appeals Act, 1874 (VI of 1874), s. 2 and sch.</i>
	S. 30 . . .	Rep. Usury Laws Repeal Act, 1855 (XXVII of 1855), s. 1.
	S. 34 . . .	Rep. <i>High Courts' Criminal Procedure Act, 1875 (X of 1875), s. 2 and sch.</i>

Regnal year and number.	Part affected.	How affected.
Geo. 3, c. 63 . . .	S. 38 . . .	Rep. <i>Code of Criminal Procedure, 1882 (Act X of 1882), s. 2 and Sch. I.</i>
" , c. 70 . . .	Ss. 9 to 16, 19 to 26 . . .	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	.....	Ext. Act XXIII of 1850, s. 12, and Act XII of 1851, s. 16.
" , c. 57 . . .	S. 29 . . .	Rep. <i>Foreign Jurisdiction and Extradition Act, 1872 (XI of 1872), s. 2 and Sch. I.</i>
	S. 38 . . .	Rep. <i>Indian Evidence Act, 1872 (I of 1872), s. 2 and sch.</i>
" , c. 52 . . .	S. 28 . . .	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
	S. 39 . . .	Mod. <i>Secretaries to Government Act, 1834 (II of 1834).</i>
	Ss. 61, 137 (from "nor shall it be lawful for any of His Majesty's subjects" to the end of the section), 155, 159.	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	S. 67 . . .	Rep. <i>Foreign Jurisdiction and Extradition Act, 1872 (XI of 1872), s. 2 and Sch. I.</i>
	Ss. 151, 152 . . .	Rep. <i>Justices of the Peace Act, 1869 (II of 1869), s. 2 and sch.</i>
	Ss. 153, 154 . . .	Rep. <i>High Courts' Criminal Procedure Act, 1875 (X of 1875), s. 2 and sch.</i>
	S. 157 . . .	Rep. <i>Coroners Act, 1871 (IV of 1871), s. 2 and Sch. I.</i>
	S. 162 . . .	Rep. <i>Indian Limitation Act, 1871 (IX of 1871), s. 2 and Sch. I.</i>
	.....	Mod. <i>Presidency Banks Act, 1876 (XI of 1876), s. 66.</i>
" , c. 142 . . .	Ss. 4 to 8, 15, 17 to 26, 30.	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	S. 16 . . .	Rep. <i>Privy Council Appeals Act, 1874 (VI of 1874), s. 2 and sch.</i>

Regnal year and number.	Part affected.	How affected.
39 & 40 Geo. 3, c. 79 . . .	Ss. 4, 6, 8, 10, 11, 17 to 19, 21 to 24.	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
42        "   c. 85 . . .	S. 6 . . .	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
47        "   Sess. 2, c. 68 .	Ss. 4 to 6 . . .	Rep. <i>Justices of the Peace Act, 1869 (II of 1869), s. 2 and sch.</i>
	Ss. 8 to 10 . . .	Rep. <i>Presidency Banks Act, 1876 (XI of 1876), s. 2 and sch.</i>
49        "   c. 126 . . .	.....	Indemnity against, <i>Act XIV of 1889.</i>
53        "   c. 155 . . .	S. 79 . . .	Mod. Secretaries to Government Act, 1831 (II of 1834).
	Ss. 97, 121, 123 . . .	Rep. <i>Repealing Act, 1873 (XII of 1873), s. 1 and sch.</i>
	Ss. 98, 99, 104, 108, 109, 113, 122 . . .	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	Ss. 100 to 103 . . .	Rep. <i>High Courts' Criminal Procedure Act, 1875 (X of 1875), s. 2 and sch.</i>
	S. 105 . . .	Rep. <i>Code of Criminal Procedure (Act X of 1872), s. 2 and sch.</i>
	S. 107 . . .	Rep. <i>Act XI of 1836.</i>
	S. 112 . . .	Rep. <i>Justices of the Peace Act, 1869 (II of 1869), s. 2 and sch.</i>
	S. 121 . . .	Rep. <i>Indian Limitation Act, 1871 (IX of 1871), s. 2 and Sch. I.</i>
54        "   c. 105 . . .	The whole . . .	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
55        "   c. 84 . . .	Ditto . . .	<i>Ditto.</i>
58        "   c. 84 . . .	Ditto . . .	Rep. <i>Indian Christian Marriage Act, 1872 (XV of 1872), s. 2 and Sch. V.</i>
4 Geo. 4, c. 71 . . .	Ss. 8 to 10, 14 . . .	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
5        "       "   c. 108 . . .	S. 2 . . .	<i>Ditto.</i>
6        "       "   c. 85 . . .	S. 6 . . .	<i>Ditto.</i>
7        "       "   c. 37 . . .	So much as had not been repealed.	<i>Ditto.</i>
9        "       "   c. 33 . . .	The whole, except as to the estates of persons dying before 1st January, 1866.	<i>Ditto.</i>

Regnal year and number.	Part affected.	How affected.
Geo. 4, c. 74 . . . .	The whole, except ss. 1, 7, 8, 9, 25, 23, 56.	Rep. <i>High Courts' Criminal Procedure Act, 1875</i> (X of 1875), s. 2 and sch.
Geo 4 & 1 Wm. 4, c. 46	.....	Ext. <i>Illusory Appointments and Infants' Property Act, 1841</i> (XXIV of 1841), s. 2.
" " " c. 47	S. 11 . . . .	Ditto, s. 4.
" " " c. 65	.....	Ditto, s. 2.
" " " c. 75	The whole . . . .	Rep. <i>Repealing Act, 1870</i> (XIV of 1870), s. 1 and sch.
& 3 Wm. 4, c. 117 . .	Ditto . . . .	Rep. <i>Justices of the Peace Act, 1869</i> (II of 1869), s. 2 and sch.
& 4 Wm. 4, c. 42 . .	S. 28 . . . .	Ext. <i>Inheritance Act, 1839</i> (XXX of 1839).
" " " c. 105 . . . .	.....	Ext. <i>Dower Act, 1839</i> (XXIX of 1839).
" " " c. 106 . . . .	.....	Ext. <i>Inheritance Act, 1839</i> (XXX of 1839).
& 6 " " c. 6 . . . .	The whole . . . .	Rep. <i>Repealing Act, 1870</i> (XIV of 1870), s. 1 and sch.
& 3 Vict., c. 34 . . .	Ditto . . . .	Rep. <i>Repealing Act, 1873</i> (XII of 1873), s. 1 and sch.
& 4 " c. 37 . . . .	Ss. 43 to 47 . . . .	Ditto.
" " " c. 56 . . . .	.....	Ext. <i>Indian Registration of Ships Act, 1841</i> (X of 1841).
& 6 " c. 45 . . . .	.....	Ext. <i>Indian Copyright Act, 1847</i> (XX of 1847).
& 7 " c. 94 . . . .	S. 7 . . . .	Rep. <i>Indian Limitation Act, 1871</i> (IX of 1871), s. 2 and sch. I.
& 12 " c. 21 . . . .	Ss. 1, 65 to 67 . . . .	Rep. <i>Repealing Act, 1870</i> (XIV of 1870), s. 1 and sch.
	Ss. 15, 19, 76 . . . .	Doubts removed, powers extended and certain rules validated, <i>Indian Insolvency Rules Act, 1898</i> (X of 1898).
	S. 12 . . . .	Rep. <i>Indian Contract Act, 1872</i> (IX of 1872), s. 1 and sch.
	.....	Ext. <i>Lower Burma Courts Act, 1889</i> (XI of 1889), s. 50.

Regnal year and number.	Part affected.	How affected.
14 & 15 Vict., c. 40 . . .	The whole . . .	Rep. Indian Christian Marriage Act, 1872 (XV of 1872), s. 2 and Sch. V.
„ „ c. 99 . . .	Ss. 11, 19 . . .	Rep. Indian Evidence Act, 1872 (I of 1872), s. 2 and sch.
17 & 18 „ c. 104 . . .	S. 9 . . .	Rep. <i>Repealing Act, 1870 (XIV of 1870), s. 1 and sch.</i>
	.....	Ext. Indian Ports Act, 1889 (X of 1889), s. 62, Indian Merchant Shipping Act, 1883 (V of 1883), ss. 17, 32.
18 & 19 „ c. 119 . . .	.....	Ext. Indian Sea Passengers Act, 1885 (XII of 1885), s. 3; Indian Merchant Shipping Act, 1883 (V of 1883), ss. 17, 32.
26 & 27 „ c. 51 . . .	.....	Ext. Indian Sea Passengers Act, 1885 (XII of 1885), s. 3.
33 & 34 „ c. 52 . . .	.....	Ext. Extradition (India) Act, 1895 (IX of 1895), s. 2.
36 & 37 „ c. 60 . . .	.....	Ditto.
44 & 45 „ c. 58 . . .	S. 156 . . .	Fines locally imposed and recovered under this provision directed to be credited to cantonment funds. Cantonments Act, 1889 (XIII of 1889) s. 21 (1) (a).

**LIST OF CHARTERS OR LETTERS PATENT OF SUPREME OR HIGH COURTS  
AFFECTED BY INDIAN LEGISLATION**

Charter, etc.	Part affected.	How affected.
Charter of Supreme Court at Fort William, dated 26th March, 1774.	Clause 21 . . .	Rep. Presidency Small Cause Courts Act, 1882 (XV of 1882), s. 2 and Sch. I.
Charter of Supreme Court at Madras, dated 26th December, 1800.	Clause 47 . . .	Rep. Presidency Small Cause Courts Act, 1882 (XV of 1882), s. 2 and Sch. I.
Charter of Supreme Court at Bombay, dated 8th December, 1823.	Clause 59 . . .	Ditto.
Letters Patent for High Court at Bombay, dated 28th December, 1865.	Section 22 . . .	Am. Act XXIII of 1866.

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Act VIII of 1894 (Tariff), as modified up to 1st March, 1896. 9a. (2a.)

Regulation I of 1886 (Assam Land and Revenue), as modified up to 1st June, 1894. 13a. (2a.)

## II.—REPRINTS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS MODIFIED BY SUBSEQUENT LEGISLATION—*concl'd.*

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## III.—ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS ORIGINALLY PASSED.

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